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Ontario

# ENVIRONMENTAL ASSESSMENT BOARD

VOLUME:

85

DATE:

Tuesday, April 4th, 1989

BEFORE:

M.I. JEFFERY, Q.C., Chairman

E. MARTEL, Member

A. KOVEN, Member



FOR HEARING UPDATES CALL (TOLL-FREE): 1-800-387-8810

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April 10, 1989

To List Attached:

RE: Class Environmental Assessment for Timber Management  
on Crown Lands in Ontario - Transcript Volume 81,  
March 7, 1989

Enclosed is page 13626 from the transcript of evidence for Volume 81 of the Class Environmental Assessment Hearings for Timber Management dated March 7, 1989. The court reporting service, Farr & Associates, failed to include it in the original transcript. Please insert this missing page in your copy of the transcript.

Yours very truly,

*Tracy Tieman*

Tracy Tieman  
Project Administrator  
Class E.A. for Timber Management  
on Crown Lands in Ontario  
34 North Cumberland Street  
6th Floor  
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TLT/jmz

enclosure







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1                   This stand is a mix in the overstorey of  
2   jack pine. You see the jack pine here and aspen,  
3   poplar. The trees, if you were walking into the site  
4   and trying to get some indication of what was going on  
5   with moisture and soil texture, you would notice that  
6   those trees are fairly large.

7                   The gentleman standing beside the  
8   poplar -- or, sorry, the jack pine would give you some  
9   scale that that's, for jack pine, is a relatively large  
10  tree. There are also relatively large -- and when I  
11  discuss these indicators of site, I am not attempting  
12  to do so in a quantitative way, it is relative.

13                  The other thing that you would notice  
14  immediately moving on to this site is that there is a  
15  thick understorey of vegetation, in fact the gentleman  
16  would probably have to battle his way into that tree.  
17  It would be alder and hazel, possibly striped maple in  
18  this understorey. You would also notice the presence  
19  of advanced growth within the understorey, we have some  
20  balsam in this understorey.

21                  And one of the other things that a  
22  forester would be noticing is that as well as the  
23  shrubby undergrowth there is a herbaceous undergrowth  
24  in this understorey.

25                  Now, all of these things would indicate

1 to a person examining this vegetation to get an  
2 indication of site that we are on a relatively rich  
3 site, it more than likely has a fine texture, or if it  
4 is not a fine texture, then moisture is high in the  
5 soil for some other reason. The duff layer on this  
6 site is probably relatively thick, 10 to 15 centimetres  
7 thick, there is a lot of material which will be adding  
8 litter to that layer.

9 He would consider the fact that you have  
10 a heavy root mat in terms of the shrub layer that's  
11 there as well as the canopy layer, and all of these  
12 things have ramifications for those topics of  
13 compaction and rutting and erosion. If you remember  
14 some of the key factors that we were looking at were  
15 soil moisture, soil texture.

16 Q. Could you indicate what is it about  
17 what you would observe in that slide which would  
18 indicate that you were on a rich site?

19 A. It would be all of the factors that  
20 I have just listed. The mixture of canopy species  
21 would indicate that. Poplar will grow on low nutrient  
22 status sites, but particularly when it is in a mix like  
23 this with a strong undergrowth and understory advanced  
24 growth, they would all be indicators that you were on a  
25 relatively nutrient rich site.



HEARING ON THE PROPOSAL BY THE MINISTRY OF NATURAL  
RESOURCES FOR A CLASS ENVIRONMENTAL ASSESSMENT FOR  
TIMBER MANAGEMENT ON CROWN LANDS IN ONTARIO

IN THE MATTER of the Environmental  
Assessment Act, R.S.O. 1980, c.140;

- and -

IN THE MATTER of the Class Environmental  
Assessment for Timber Management on Crown  
Lands in Ontario;

- and -

IN THE MATTER of an Order-in-Council  
(O.C. 2449/87) authorizing the  
Environmental Assessment Board to  
administer a funding program, in  
connection with the environmental  
assessment hearing with respect to the  
Timber Management Class  
Environmental Assessment, and to  
distribute funds to qualified  
participants.

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Hearing held at the Ramada Prince Arthur  
Hotel, 17 North Cumberland St., Thunder  
Bay, Ontario, on Tuesday, April 4th,  
1989, commencing at 9:00 a.m.

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VOLUME 85

BEFORE:

MR. MICHAEL I. JEFFERY, Q.C.	Chairman
MR. ELIE MARTEL	Member
MRS. ANNE KOVEN	Member





A P P E A R A N C E S

MR. V. FREIDIN, Q.C.)	MINISTRY OF NATURAL
MS. C. BLASTORAH )	RESOURCES
MS. K. MURPHY )	
MS. Y. HERSCHER )	
MR. B. CAMPBELL )	MINISTRY OF ENVIRONMENT
MS. J. SEABORN )	
MR. R. TUER, Q.C.)	ONTARIO FOREST INDUSTRY
MR. R. COSMAN )	ASSOCIATION and ONTARIO
MS. E. CRONK )	LUMBER MANUFACTURERS'
MR. P.R. CASSIDY )	ASSOCIATION
MR. J. WILLIAMS, Q.C.	ONTARIO FEDERATION OF
MR. B.R. ARMSTRONG	ANGLERS & HUNTERS
MR. G.L. FIRMAN	
MR. D. HUNTER	NISHNAWBE-ASKI NATION and WINDIGO TRIBAL COUNCIL
MR. J.F. CASTRILLI)	
MS. M. SWENARCHUK )	FORESTS FOR TOMORROW
MR. R. LINDGREN )	
MR. P. SANFORD )	KIMBERLY-CLARK OF CANADA
MS. L. NICHOLLS)	LIMITED and SPRUCE FALLS
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MR. R. EDWARDS )	NORTHERN ONTARIO TOURIST
MR. B. McKERCHER)	OUTFITTERS ASSOCIATION
MR. L. GREENSPOON)	NORTHWATCH
MS. B. LLOYD )	



APPEARANCES: (Cont'd)

MR. J.W. ERICKSON, Q.C.) MR. B. BABCOCK )	RED LAKE-EAR FALLS JOINT MUNICIPAL COMMITTEE
MR. D. SCOTT ) MR. J.S. TAYLOR)	NORTHWESTERN ONTARIO ASSOCIATED CHAMBERS OF COMMERCE
MR. J.W. HARBELL) MR. S.M. MAKUCH )	GREAT LAKES FOREST
MR. J. EBBS	ONTARIO PROFESSIONAL FORESTERS ASSOCIATION
MR. D. KING	VENTURE TOURISM ASSOCIATION OF ONTARIO
MR. D. COLBORNE	GRAND COUNCIL TREATY #3
MR. R. REILLY	ONTARIO METIS & ABORIGINAL ASSOCIATION
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MR. G.J. KINLIN	DEPARTMENT OF JUSTICE
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MR. M. COATES	ONTARIO FORESTRY ASSOCIATION
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MR. R.L. AXFORD	CANADIAN ASSOCIATION OF SINGLE INDUSTRY TOWNS
MR. M.O. EDWARDS	FORT FRANCES CHAMBER OF COMMERCE
MR. P.D. McCUTCHEON	GEORGE NIXON





(iii)

APPEARANCES: (Cont'd)

MR. C. BRUNETTA

NORTHWESTERN ONTARIO  
TOURISM ASSOCIATION





I N D E X   O F   P R O C E E D I N G S

<u>Witness:</u>	<u>Page No.</u>
<u>DAVID LOWELL EULER,</u> <u>PETER PHILLIP HYNARD,</u> <u>JOHN TRUMAN ALLIN,</u> <u>RICHARD BRUCE GREENDWOOD,</u> <u>CAMERON D. CLARK,</u> <u>GORDON C. OLDFORD, Resumed</u>	14163
Cross-Examination by Mr. Tuer	14164



I N D E X   O F   E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>Page No.</u>
488	MOE Interrogatory Questions No. 1 & 2, Forests for Tomorrow Interrogatory Question No. 1 & Question No. 21 (Panel 10)	14161
489	Two-page document entitled: Interim Direction for Application of Timber Management Guidelines for the Provision of Moose Habitat.	14275
490	OFIA Interrogatory Question Nos. 27(c), 28, 30, 31, 32, 33, 34 and the answers thereto.	14322
491	Package of interrogatories filed by Forests for Tomorrow.	14323





1 ---Upon commencing at 9:20 a.m.

2 THE CHAIRMAN: Thank you. Please be  
3 seated.

4 Very well, ladies and gentlemen. We are  
5 ready to proceed with the Industry's examination of  
6 this panel.

7 Are there any preliminary matters to be  
8 dealt with prior to Mr. Tuer commencing his  
9 examination?

10 Ms. Blastorah?

11 MS. BLASTORAH: Mr. Chairman, I think Mr.  
12 Freidin indicated the last day we had a few  
13 interrogatories to be filed and we have copies of those  
14 now. I do have them stapled separately, but it would  
15 probably be just as simple to mark them all as one  
16 package.

17 THE CHAIRMAN: These are in addition to  
18 the ones -- some of the exhibits we didn't get last  
19 week such as the slides?

20 MS. BLASTORAH: Yes, that's right. These  
21 are new interrogatories. The numbers are Ministry of  
22 the Environment Nos. 1 and 2.

23 THE CHAIRMAN: All right. Exhibit 488.

24 MS. BLASTORAH: Do you want to just mark  
25 these all as one, Mr. Chairman, or do you...

1 THE CHAIRMAN: All right. Is that the  
2 simplest...

3 MS. BLASTORAH: I can just list them all  
4 for you and give them all the same exhibit number.

5 THE CHAIRMAN: All right.

6 MS. BLASTORAH: And the next one is  
7 Forests for Tomorrow No. 3 and finally Forests for  
8 Tomorrow No. 21.

9 THE CHAIRMAN: All right. All of those  
10 will be Exhibit 488.

11 ---EXHIBIT NO. 488: MOE Interrogatory Questions No. 1  
12 & 2, Forests For Tomorrow  
13 Interrogatory Question No. 1 &  
14 Question No. 21 (Panel 10).

15 MR. FREIDIN: Mr. Chairman, I am  
16 wondering whether you have been contacted by the  
17 parties and received any indication as to who is going  
18 to cross-examine and who is not. We obviously know the  
19 people who are here are going to cross-examine.

20 Have you heard from Mr. Hunter, Mr.  
21 Colborne, Mr. Edwards?

22 THE CHAIRMAN: I think in my discussions  
23 with Mr. Mander there has been an indication that Mr.  
24 Hunter will cross-examine and Mr. Edwards will also  
25 cross-examine, probably Mr. Hanna will cross-examine on  
behalf of the Federation of Anglers & Hunters. In



1 addition to that, Ms. Swenarchuk will be  
2 cross-examining and Ms. Seaborn will be  
3 cross-examining.

4 We haven't, I don't believe, to my  
5 recollection, heard from Mr. Reilly, although I also  
6 think Mr. Colborne will be cross-examining.

7 MR. FREIDIN: I am just wondering, again  
8 just to get an estimate of the time that people think  
9 they will be so we will know how we will plan for the  
10 next panel.

11 THE CHAIRMAN: all right. We might as  
12 well just canvass that.

13 Mr. Tuer, you expect to be how long?

14 MR. TUER: I will finish today.

15 THE CHAIRMAN: Ms. Swenarchuk?

16 MS. SWENARCHUK: I would think two days  
17 and I am not sure how much beyond that.

18 THE CHAIRMAN: Ms. Seaborn?

19 MS. SEABORN: Mr. Chairman, I am at the  
20 end of the order and it is very hard for me to estimate  
21 until I hear other peoples' cross-examination. I would  
22 really like to see how things go over the next week and  
23 give the Board an indication at that time.

24 THE CHAIRMAN: Thank you. And, again, I  
25 am not sure about Mr. Hanna but I believe the

1 indication was something in the nature of a day or  
2 slightly more. Again, I could be wrong.

3 MS. SWENARCHUK: Mr. Chairman, I believe  
4 Mr. McKibbin will be here tomorrow and we may hear from  
5 him as to how long they expect Mr. Hunter to be.

6 THE CHAIRMAN: Mr. Freidin, I am sorry, I  
7 don't have any idea about the others.

8 MR. FREIDIN: Fine, thank you.

9 THE CHAIRMAN: Mr. Freidin, the Board has  
10 just had an update on what I previously said. Our  
11 latest advice is Mr. Edwards will be approximately one  
12 and a half days, Mr. Hanna will be approximately three  
13 days, Mr. Hunter will be approximately a half a day to  
14 a day and Mr. Colborne will be a half a day to a day.  
15 And you have the others here present.

16 Mr. Tuer?

17 MR. TUER: Dr. Euler, you look to be in a  
18 particularly good mood today so I think I will start  
19 with you.

20 DR. EULER: I am not sure if that's an  
21 honour.

22 DAVID LOWELL EULER,  
23 PETER PHILLIP HYNARD,  
24 JOHN TRUMAN ALLIN,  
25 RICHARD BRUCE GREENWOOD,  
CAMERON D. CLARK,  
GORDON C. OLDFORD, Resumed

1       CROSS EXAMINATION BY MR. TUER:

2                               Q.   Your resume states that you are  
3   presently the Habitat Development Coordinator of the  
4   Wildlife Branch; is that so?

5                               DR. EULER:   A.   Yes, that's correct.

6                               Q.   Does that put you into contact with  
7   the district offices across the province?

8                               A.   Yes, from time to time it does.

9                               Q.   So you know what's going on in the  
10  various districts in the area of the undertaking?

11                              A.   I will have an overview.   I might not  
12  know the specifics in each district, I would have a  
13  general overview.

14                              Q.   And you have had that job, that  
15  position since January of 1988, Coordinator?

16                              A.   Well, actually I was in that position  
17  for some years before that, then I had some time in a  
18  district office and then I came back to that position.

19                              Q.   What district office were you in?

20                              A.   Niagara.

21                              Q.   And your resume says from September,  
22  '86 to January, '88 you were regional wildlife  
23  biologist, central region?

24                              A.   That's correct.

25                              Q.   Did that involve you going into the

1 field?

2 A. Yes.

3 Q. And you still go into the field, do  
4 you?

5 A. Yes.

6 Q. So you have contact with various  
7 areas within the area of the undertaking--

8 A. Yes, I do.

9 Q. --from time to time?

10 A. Yes, I do.

11 Q. And you have contact with various  
12 members of the industry, do you?

13 A. I haven't had a lot of contact with  
14 members of the industry, I have had some.

15 Q. Yes. And from your overview, in the  
16 area of the undertaking at least, what has been your  
17 impression of any response to wildlife concerns? Has  
18 it been a responsible one in your impression?

19 A. I would say in general, yes, it has  
20 been responsible as a general statement. There are, of  
21 course, as in any group of people some individuals who  
22 responded somewhat less than positive from time to  
23 time, but as a general overall statement, generally  
24 positive.

25 Q. Yes. And do you believe that you



1 have received good cooperation from the industry as a  
2 whole--

3 A. Yes.

4 Q. --in what you are trying to  
5 accomplish?

6 A. Yes, as a whole we do.

7 Q. And you obviously get feedback from  
8 your district manager, district foresters and your own  
9 biologist would report to you?

10 A. Yes.

11 Q. And I was left with the impression  
12 last week from what you said that there is some concern  
13 about the various guidelines that we are going to get  
14 into in a few minutes.

15 Are those the concerns that have reached  
16 you through the district managers, district foresters  
17 and biologists from the industry?

18 A. Yes.

19 Q. Concerns as to the application of the  
20 guidelines?

21 A. Yes.

22 Q. Concerns as to uneven application of  
23 guidelines? By that I mean what is done in one  
24 wildlife district may not be done in another?

25 A. Those concerns have been expressed,

1 yes, and I have heard them.

2 Q. And that would be something that  
3 would perhaps come to some members of the industry  
4 because they might be operating more than one wildlife  
5 district; is that so?

6 A. Yes.

7 Q. And they are confronted by the  
8 application of guidelines in one fashion in one  
9 wildlife district and another fashion in another  
10 wildlife district. Is that one of the concerns that  
11 you were directing your attention to last Friday --  
12 Thursday, rather?

13 A. Yes, that is a concern.

14 Q. We will get to the interim proviso  
15 that you discussed later, but before we do that I want  
16 to talk about the guidelines themselves.

17 Again, I was left with the understanding  
18 from your evidence that your concern is that the  
19 guidelines -- let's direct ourselves to the moose  
20 guidelines which I gather is your baby; is that so?

21 A. I was very much involved in their  
22 preparation, yes.

23 Q. Yes. So you have a good  
24 understanding of what is intended to be accomplished by  
25 those guidelines?

1 A. Yes, I do.

2 Q. And concerns that you have expressed,  
3 as I understood it, they may be applied in too rote a  
4 fashion--

5 A. Yes, that's correct.

6 Q. --to use your word; that is to say  
7 they are not to be applied unintelligently?

8 A. That's correct.

9 Q. One has to use a not so common thing  
10 called common sense in their application?

11 A. Yes.

12 Q. And the professional judgment of  
13 foresters and biologists?

14 A. Indeed.

15 Q. So as I understand the application of  
16 the guidelines, the moose guidelines speak  
17 specifically -- is mandatory on the part of the  
18 district manager; is that so?

19 A. Yes, the use of the guidelines is  
20 mandatory, yes.

21 Q. But the fashion in which they were to  
22 be used is very much discretionary depending upon local  
23 conditions?

24 A. That's right.

25 Q. And is it that fact that is causing

1 some concern to you and your part of the Ministry in  
2 the application of the guidelines?

3 A. Yes.

4 Q. That some of your district managers -  
5 or is it the district manager who is the person  
6 responsible in the district - the district manager, the  
7 district forester may or may not be the same person, or  
8 the biologist?

9 A. Normally the responsibility lies with  
10 the district manager because he is the supervisor of  
11 all of those people. He can't possibly know everything  
12 so he relies heavily on the district biologist to  
13 implement the guidelines.

14 Q. Do all of the districts in the area  
15 of the undertaking have a biologist on staff?

16 A. Not every single one, no.

17 Q. I don't mean in the province, I mean  
18 in the area of the undertaking?

19 A. Yes. To the best of my knowledge not  
20 every single district has a biologist. Some are out  
21 there, that I am sure, but I don't have...

22 Q. That must be a matter of concern; is  
23 it not?

24 A. Yes, it is.

25 Q. Is it not the case that the most



1       satisfactory way of applying the wildlife guidelines is  
2       to have the biologist -- district biologist, familiar  
3       with the area that he is administering?

4                   A. Yes, of course, that's very  
5       desirable.

6                   Q. That means getting out in the field;  
7       does it not?

8                   A. Yes, it does.

9                   Q. So if one is setting up reserves for  
10      fish habitat or for moose habitat or deer habitat, a  
11      much more preferable practice would be for the  
12      biologist to get out in the field and see what he is  
13      dealing with or, at the very least, fly over there with  
14      a chopper than to deal with it in the office?

15                  A. Yes, of course.

16                  Q. You can't possibly get the same  
17      flavour or knowledge from being in the office, can you?

18                  A. No, it is very desirable to be out  
19      there.

20                  Q. And one of the concerns that has been  
21      expressed by industry is that it may be monetary  
22      constraints, I don't know, from preventing this from  
23      happening as much as it should.

24                  The concern expressed by industry is that  
25      they sometimes have difficulty dealing with the problem

1 at hand because they are in the district office?

2 A. That certainly did --

3 Q. By that I mean the office itself as  
4 opposed to being out in the field?

5 A. There is no question that from time  
6 to time that happens and, yes, indeed, some people have  
7 expressed that concern. It is a matter of perspective.

8 I mean, I don't see this as an  
9 overwhelming problem. I see it as a matter for  
10 concern. We always want to have district people in the  
11 field as far as time and money and other duties make it  
12 possible.

13 Q. But isn't that part of the problem  
14 with this application of guidelines, which you call  
15 rote, that the biologist can sit at the office, at his  
16 chair and desk, take a pencil and draw a circle and  
17 say: All right, these are the way the guidelines are  
18 going to be applied. Has that been one of the concerns  
19 expressed by industry?

20 A. Yes, it has and I don't think it is  
21 an overwhelming matter. I can't deny that was a  
22 concern expressed by industry but, in my judgment, this  
23 is not something that is causing us to go down the tube  
24 because of inappropriate application.

25 Q. I don't suggest that, but would the

1 guidelines not be better applied by the biologist  
2 getting out into the field and seeing what's there  
3 rather than sitting in the office with the aerial  
4 photograph and a pencil?

5 A. Absolutely, and I think our  
6 biologists do that very frequently.

7 Q. Yes, I am sure they do, but the  
8 fact --

9 A. Occasionally, that's right. The  
10 press of duties occasionally prevents them from doing  
11 that.

12 Q. You don't have enough manpower; is  
13 that not it?

14 A. Well, it would certainly be nice to  
15 have more people, no question about that. Yet within  
16 the context of the Ministry and within the context of  
17 all of the things the Ministry has to do, it is  
18 difficult.

19 Q. I appreciate that and I appreciate  
20 that things may be spread thin, but the point I am  
21 making - and I don't think you disagree with me - is  
22 you simply don't have the manpower to do the biological  
23 studies in the fashion that you would like to do them  
24 in every instance?

25 A. That's correct.

1 MR. MARTEL: Can I ask a question, Mr.  
2 Tuer?

3 MR. TUER: Yes.

4 MR. MARTEL: There are areas that might  
5 not have a biologist. What would you do in an  
6 agreement, say an FMA - if you didn't have a biologist  
7 to make a decision - for example, where buffers should  
8 be in an area if you didn't have a biologist; who would  
9 make that decision?

10 DR. EULER: There are a couple of ways  
11 that that can be dealt with. You can get a biologist  
12 in from a neighbouring unit, for example. There are  
13 other people who are also skilled in applying those  
14 guidelines who are not necessarily biologists.

15 We have wildlife management officer  
16 technicians who can be trained to do a very good job.  
17 It is not necessary that a biologist be everywhere in  
18 every decision, it depends on who he is supervised by  
19 as well.

20 See, I cannot remember each and every  
21 district in the province and whether or not each and  
22 every district has a district biologist. I am sure out  
23 there there is a district without one. Most of them  
24 has a biologist, by far the majority.

25 It is just as we were talking about when



1 I was giving my evidence, keep the perspective of these  
2 problems in mind. There is no question that there are  
3 problems but, in my judgment, they are not  
4 overwhelming. They are relatively my minor compared to  
5 the magnitude of the job we are trying to do.

6 MR. TUER: Q. Dr. Euler, looking at the  
7 wildlife management units, is it also not the case that  
8 if things were perfect you would have biologist experts  
9 in all fields of wildlife, and we all know that's not  
10 very realistic.

11 For example, right here we have yourself  
12 who has great expertise in certain areas of wildlife,  
13 and Dr. Allin for example who has great expertise in  
14 the another area of wildlife, yet in the same wildlife  
15 management unit you are dealing with both those  
16 problems or may be?

17 DR. EULER: A. It is possible, yes.

18 Q. So does that not also emphasize the  
19 fact that to the extent that there may be a problem,  
20 there is a problem with biological expertise across the  
21 whole spectrum of wildlife issues in dealing with  
22 timber management plans?

23 A. It is hard for one person to know  
24 everything, that's for sure.

25 Q. I have discovered that about the law

1 and I am sure it is the same with you..

2 A. That's right. We get too soon old  
3 and too late smart.

4 Q. How would that be dealt with? I have  
5 a timber management plan and I have got the problem to  
6 deal with such as moose population and also a lot of  
7 fish problems; how do I deal with it? How do you deal  
8 with it?

9 A. Well, it depends on the nature of the  
10 problem. You see there is always the regional  
11 structure where someone can help if necessary, then  
12 there is the head office structure that can be brought  
13 to bear to help, if necessary.

14 And our most recent attempt to help is we  
15 have a person designated now to be Provincial  
16 Guidelines Coordinator. Prior to that we ran courses  
17 every year -- workshops and courses in how to apply the  
18 guidelines and we tried to get foresters and biologists  
19 in there.

20 Ideally if the guidelines are well  
21 constructed they can be implemented by persons other  
22 than biologists.

23 Q. Yes. But regional and head office  
24 people don't go out in the field as a rule?

25 A. Well, in special problem areas they

1 might where there is an especially difficult issue that  
2 had to be dealt with. See, much of the time the  
3 implementation of the guidelines is routine and there  
4 are few problems. It is when a problem develops that  
5 other people may be asked to help.

6 Q. All right. But you said yourself  
7 last Thursday or Wednesday or Tuesday that a lot of  
8 discretion has to be exercised in the application of  
9 the guidelines because we are talking about situations  
10 and circumstances that vary from Cochrane to west of  
11 Kenora?

12 A. That's right.

13 Q. A very large area and a large  
14 diversity of wildlife, topography and forest in that  
15 wide broad area?

16 A. Yes.

17 Q. And that requires - I am not going to  
18 belabor the point - but that requires in itself a wide  
19 expertise in wildlife matters which we agree no single  
20 man or woman is going to be able to handle all at the  
21 same time?

22 A. Yes.

23 Q. And the point I am suggesting is that  
24 you could use more expertise at the district level  
25 dealing with the timber management plans at the

1 conceptual stage before they get to the review stage?  
2 You need the wildlife expertise, biological expertise  
3 at that level; do you not?

4 A. Yes, it would be very helpful.

5 Q. Have you got in front of you a copy  
6 of the moose guidelines, please?

7 A. Yes, I have.

8 Q. I want to take you through this, and  
9 just put out of your mind for the moment the interim  
10 measures that we spoke of last Friday, and we will get  
11 to that later.

12 A. Okay.

13 Q. Now, go to page (i) under the heading  
14 of General Guidelines. I think it is probably green in  
15 your copy.

16 A. Yes, it is.

17 Q. And down to the Boreal Forest Region  
18 it reads, in the second paragraph:

19 "Clearcut in blocks of 80-130 ha  
20 (200-320 acres) and leave buffer zones  
21 between cuts and scattered patches of  
22 trees within cut-overs. Average cut size  
23 is optimal at about 100 ha (250  
24 acres)."

25 Then at page 10 -- correction, going to



1 page (ii) which is also green, the last paragraph on  
2 the right-hand side, Application of Guidelines:

3 "It is not feasible to provide too rigid  
4 a set of guidelines specifying precisely  
5 how timber should be harvested to  
6 maintain a good moose population. Local  
7 managers must decide how best to adapt  
8 the principles contained within the  
9 Guidelines to meet the needs of both  
10 moose and the forest industry in their  
11 area. As not all wildlife species can be  
12 managed to maximize populations  
13 on the same land area, neither can all  
14 areas be managed in a way that maximizes  
15 both moose and timber production.

16 Discussion and compromise among  
17 government and industry managers is  
18 essential to the management process in  
19 order to obtain the best protection,  
20 enhancement and use of both valuable  
21 resources. In general, if individual  
22 harvest blocks did not exceed one  
23 hundred hectares, concerns for moose  
24 should be restricted to known specific  
25 areas (concentration areas, mineral lick

1 sites, calving sites, aquatic feeding  
2 areas). If cuts are proposed that exceed  
3 the general guidelines over large areas,  
4 the District must receive the Regional  
5 Director's approval prior to agreeing to  
6 the plan. If a Region intends to  
7 routinely sanction deviation from the  
8 guidelines, the Assistant Deputy  
9 Minister's approval must be obtained  
10 before approving the plans."

11 And then at page 10 in the body of the  
12 guideline, paragraph 6.0, Application of Guidelines:

13 "Moose habitat needs vary during the day,  
14 different times of the year, and across  
15 their range. Also, the topography and  
16 climatic conditions in Ontario are not  
17 uniform and timber management practices  
18 vary widely across the Province."

19 No argument about that?

20 A. No, none at all.

21 Q. "Because of this variation, the  
22 Guidelined for use in planning timber  
23 management are set down in a general way  
24 to ensure that average habitat conditions  
25 are provided. Local managers and

1 planners will decide how to best apply  
2 the principles to meet local conditions.  
3 In addition, not all areas can be managed  
4 in such a way that maximum timber  
5 production will coincide with maximum  
6 wildlife production. Compromise and  
7 discussion among the managers is  
8 essential to the management process."  
9 That to me seems to indicate, as a  
10 benchmark of these guidelines, that a good deal of  
11 discretion must be accepted at the local level?  
12 A. Yes.  
13 Q. Is that what is intended?  
14 A. Yes.  
15 Q. Carrying on, that:  
16 "In general, if the individual harvest  
17 blocks in the proposed five year  
18 allocation do not exceed 100 hectares,  
19 should be no or few moose concerns.  
20 In such cases concerns should  
21 be restricted to known specific areas.  
22 (concentration areas, mineral  
23 lick sites, calving sites, aquatic  
24 feeding areas).  
25 If cuts are proposed which exceed general

1 guidelines over large  
2 areas, the district must consider  
3 existing and potential moose habitat  
4 requirements prior to approving the plan.  
5 When a district proposes a cut that  
6 greatly exceeds the general guidelines,  
7 they must, in advance, receive the  
8 Regional Director's approval. In  
9 addition, if a region intends to  
10 routinely sanction deviation from  
11 the guidelines, the Assistant Deputy  
12 Minister's approval must be obtained in  
13 advance of approving the plans."

14 Now, we start with the proposition that  
15 except in unusual local conditions clearcuts up to 130  
16 hectares are not a problem?

17 A. Correct.

18 Q. Where does the figure come from of  
19 130 acres.

20 A. Hectares.

21 Q. Hectares, is that arbitrary? I say  
22 that in the light of Dr. Armson's evidence, which I may  
23 be referring to you later, in Panel 9.

24 A. 9, yes.

25 Q. And what was said by your panel last

1 week as to the extent to which clearcutting can safely  
2 been done.

3 A. Mm-hmm.

4 Q. Where did you get this 130-hectare  
5 figure.

6 A. That is based on research. We  
7 surveyed all the scientific literature. For example,  
8 Mr. McNicol did a Masters thesis on this particular  
9 subject and one of Mr. McNicol's recommendations on the  
10 basis of his Masters thesis was 130 hectares is a good  
11 size.

12 We also looked at other research that had  
13 been done on moose in North American. Another man had  
14 researched moose habitat needs in Minnesota, his name  
15 is Jim Peak, and we looked at what his description of  
16 good moose habitat was. We looked at research in  
17 Ontario as well, particularly at Dr. Harold Cummings  
18 work where he had described good moose habitat.

19 And from those studies it appeared as  
20 those that was the best figure.

21 Q. But - and I will get into this again,  
22 I don't want to anticipate - but my impression from  
23 what I have read in the guidelines themselves and your  
24 evidence of last week is that -- and Mr. Armson's  
25 evidence, is that size of clearcut is a minor matter,



1 the significant thing is the configuration of the  
2 clearcut; is that not so?

3 A. Well, no, I couldn't quite agree with  
4 that. If you remember the two items that I showed,  
5 often the configuration of the clearcut is not as  
6 important as surrounding plant communities.

7 What I believe to be true is that there  
8 are a number, there are several factors that are  
9 important in evaluating clearcut size and I have listed  
10 them in my evidence. Size is one of them.

11 It does turn out that size is a handy  
12 thing to use as a bureaucratic device to help guide  
13 managers, but that is all. In terms of the moose, it  
14 really is no more or no less important than the other  
15 parameters.

16 Q. I'm sorry, did you say no less  
17 important?

18 A. I believe it is of about equal  
19 importance to the other parameters as far as moose is  
20 concerned, and other wildlife as well.

21 Q. So you disagree with Mr. Armson then?

22 A. Slightly, yes.

23 Q. Because --

24 A. Yes, I know. Dr. Armson said...

25 Q. Let me read it to you. At page

1 12687 - and I don't have the whole, I am picking it up  
2 at the top of that page:

3 "Certainly it can be highly variable."

4 Question:

5 "Certainlty it can be highly variable.

6 does it not follow from what you are  
7 saying, that a very large area with  
8 increased distances to edge could be more  
9 disadvantageous for regeneration."

10 Sorry, I have got the wrong one, I'm dealing now with  
11 timber regeneration.

12 But does Dr. Armson not suggest to you  
13 that, or did he not suggest in his evidence that the  
14 size was not as important as configuration?

15 A. Yes, that is what Dr. Armson  
16 suggested from his perspective as a forest ecologist,  
17 correct.

18 Q. All right. Let's go on then.

19 THE CHAIRMAN: Mr. Tuer, irrespective of  
20 the fact that you couldn't find the exact passage--

21 MR. TUER: I'll find it.

22 THE CHAIRMAN: --is that citation  
23 correct, the page number?

24 MR. TUER: Yes, yes. I will find.

25 THE CHAIRMAN: Thank you.

1 MR. TUER: Q. Have you got Exhibit 472  
2 there, please. Look at page 8 in 472. Have you got  
3 that?

4 A. Page 8 of 472?

5 Q. Page 8.

6 A. Seven, eight, yes.

7 Q. Well, that was the example you used  
8 last week--

9 A. Yes.

10 Q. --of desirable and less desirable  
11 configurations of clearcut.

12 A. Well, no. This illustrates how two  
13 clearcuts of the same size can have a different impact  
14 on wildlife.

15 Q. Well, let's not quibble over  
16 semantics. The fact is that a clearcut of 500  
17 hectares, and a configuration of that on the right,  
18 might well be acceptable while the same number of  
19 hectares in a circle would not be acceptable?

20 A. Exactly.

21 Q. Isn't that the point you're making?

22 A. Exactly. That is precisely my point.

23 Q. All right. Well, then I am  
24 suggesting to you that having 130 hectares as an  
25 acceptable area of clearcut, or a larger area than 130

1 acres, largely depends upon its configuration?

2 A. Well--

3 Q. Isn't that what you said last week?

4 A. --I think in my evidence I made a  
5 list of all of the factors that should be considered.  
6 On page 539 and 541, I have 11 items that should be  
7 considered when evaluating forest management, including  
8 clearcuts, for their impact on wildlife.

9 Size and configuration are two very  
10 important variables, but also so is the physiography of  
11 the area and the plant communities before and after.

12 There are a number of things that must be  
13 evaluated and you simply cannot look at only one of  
14 them.

15 Q. I'm not suggesting you do, Dr. Euler.  
16 I am suggesting to you, or that when we are talking  
17 about size of clearcut, the configuration of the  
18 clearcut can meet, in many circumstances, other  
19 concerns as to size of acreage alone?

20 A. Configuration is very important,  
21 there is no question.

22 Q. All right. Now, go back to page 10,  
23 please.

24 A. Of...?

25 Q. Of the guideline, paragraph 6. The

1 last paragraph that I read to you, halfway through it  
2 reads:

3 "When a district proposes a cut that  
4 greatly exceeds the general  
5 guidelines..."

6 Have you got that?

7 A. Yes, I do.

8 Q. Focussing on the word greatly, I take  
9 it that is a word that is applied in the discretion of  
10 the local manager?

11 A. That's correct.

12 Q. And it is not intended to put any  
13 definitive measurement on that?

14 A. That's correct.

15 Q. So to use your illustration in the  
16 jack pine sand flats of the boreal forest, greatly may  
17 mean many hundreds of hectares more than it might mean  
18 in another area of the undertaking?

19 A. Yes.

20 Q. So how does a district manager then  
21 who is dealing with the timber management plan in a  
22 forest of jack pine on sand flats to decide whether he  
23 has got to have the Regional Director's approval?

24 A. Well, that is a judgment call, that  
25 is why he is a human being and--



1 Q. Why he is a professional.

2 A. --and all the skills of a human  
3 being, yes.

4 Q. Why he is a professional?

5 A. Exactly, otherwise we could have a  
6 computer in his place.

7 Q. So he has got to make that definitive  
8 judgment?

9 A. That's right, it is a human judgment.

10 Q. As to whether this proposed clearcut,  
11 say 500 hectares, is one that he should obtain regional  
12 approval of?

13 A. Yes.

14 Q. And is it your evidence, or the  
15 purport of your evidence from last week that one of the  
16 difficulties that has arisen is that in that situation  
17 some district managers have said, in the same  
18 situation: Well, it says 130 hectares, that is it,  
19 even in the forest where the wildlife values are not  
20 going to be threatened in any fashion by a clearcut of  
21 a greater size?

22 A. We have a very small number of  
23 district managers who have, on a very small number of  
24 occasions, done that.

25 Q. But that has been one of the concerns

1       expressed by industry?

2                   A. Yes, because the particular industry  
3       that is involved in that case may be concerned. And  
4       that is why it is important to us to move to solve that  
5       problem, and that is what we are doing as you -- as we  
6       have discussed and will discuss, that is why we are  
7       trying to bring in some of those parameters of...

8                   THE CHAIRMAN: Dr. Euler, does it work  
9       both ways? Mr. Tuer's indicating that on some  
10      occasions industry has expressed the view that the  
11      guidelines are being applied too rigidly and that  
12      perhaps a larger clearcut can be justified in a local  
13      circumstance.

14                   Does it work the other way where you get  
15      some complaints that the district manager is applying  
16      the guidelines too liberally?

17                   DR. EULER: Oh, Mr. Chairman, indeed it  
18      does and we get far more complaints on the other side  
19      that we are having big clearcuts, that we don't take  
20      proper care. From those persons who are concerned  
21      about the forest and the ecology of the forest we have  
22      many more concerns expressed from that side, and it is  
23      a very difficult path to walk for the district manager  
24      between the legitimate needs of industry, which are  
25      very important, and the concerns of other users of the

1 forest.

2 MR. TUER: Q. When it comes to concerns  
3 expressed by other users of the forest, weighted  
4 against the legitimate concerns of industry in the  
5 example given to you -- the proposition given to you by  
6 the Chairman, what is your view as to legitimacy of  
7 those concerns?

8 DR. EULER: A. Well, often they are very  
9 legitimate and often this is what makes resource  
10 management extraordinarily difficult, it is those  
11 decisions, those tradeoffs; how do you decide how best  
12 to make those decisions. And those are extraordinarily  
13 difficult decisions. They require all the skill that a  
14 person can muster to make them carefully.

15 Q. Well, that is not really addressing  
16 what I intended to put to you. I may not have put it  
17 well. What I am suggesting to you is that you may have  
18 a clearcut that is greater than the 130 hectare  
19 benchmark.

20 A. Yes.

21 Q. It may have all the skill and  
22 judgment and expertise of the district biologist and  
23 district manager put into it before the decision is  
24 made and the cut takes place, yet it might raise all  
25 kinds of criticisms from people who don't like the

1       aesthetics of it, or who have concerns, which your  
2       people have already concerned and have decided have  
3       been met. Is that not what happens?

4                   A. Well, that is a hypothetical example  
5       and certainly that can occur and has occurred, there is  
6       no question. I don't want to deny that that never  
7       occurs. On the other hand, I think for the most part  
8       the concerns are resolved in a reasonable way. Not  
9       every party is always happy though.

10                   That is one of our problems, is trying to  
11       meet the needs of all the people who are our employers.

12                   Q. What I am suggesting to you is that  
13       you apply -- or your people apply professional judgment  
14       and that professional judgment may in turn may require  
15       the decision to make certain compromises on both sides.

16                   A. Yes.

17                   Q. And that fact notwithstanding, you  
18       still get criticisms?

19                   A. That's right. We get criticisms,  
20       that is a daily part of our diet. We eat it for lunch  
21       and we get vaccinated for it.

22                   Q. Well, vaccination is a part. The  
23       fact that you get criticisms because clearcuts are  
24       larger than some other users of the forest prefer does  
25       not mean that the forest is not being managed well?



1 A. That's right.

2 Q. All right.

3 A. That's right.

4 THE CHAIRMAN: But that could also apply  
5 the other way too; couldn't it?

6 DR. EULER: Yes, indeed. It is a  
7 double-edged sword.

8 MR. TUER: Q. Well, are there not --  
9 carrying on with the moose guidelines and their  
10 application and the discretion that -- the professional  
11 judgment that is used in their application, apart from  
12 the example you gave - and I think you touched on this  
13 other as well - of areas where there is little wildlife  
14 that is threatened by large clearcuts, are there not  
15 areas in the province, for example, where there are no  
16 moose populations?

17 DR. EULER: A. Oh, yes, there are.

18 Q. I shouldn't say the province, areas  
19 of the undertaking?

20 A. Yes.

21 Q. Are there not areas of the  
22 undertaking where you would be as apt to see an  
23 elephant as a moose?

24 A. It is a bit extreme, perhaps.

25 Q. A bit extreme but there are no moose?



1                   A. There are areas where -- properly  
2 what you should say is, there are areas of the province  
3 where moose density is very, very low.

4                   Q. And always has been?

5                   A. Probably, best of our knowledge.

6                   Q. So those would be areas where you  
7 would expect the district manager to apply the clearcut  
8 guideline in a more liberal fashion?

9                   A. Yes, that's correct. Less  
10 rigorously, yes.

11                  Q. Less rigorously, yes.

12                  THE CHAIRMAN: Mr. Tuer, if I could just  
13 interrupt for a minute.

14                  Dr. Euler, if you are using the featured  
15 species management principle, what do you do in the  
16 areas of the province where there is a low density of  
17 moose with respect to the other wildlife?

18                  DR. EULER: Yes.

19                  THE CHAIRMAN: If you're not applying  
20 the moose guidelines--

21                  DR. EULER: As rigorously.

22                  THE CHAIRMAN: --as rigorously--

23                  DR. EULER: Yes.

24                  THE CHAIRMAN: --what happens to the  
25 other wildlife that is depending for protection upon

1 MNR's use of the featured species of which moose is  
2 one?

3 DR. EULER: Of the moose guidelines.  
4 Right. Well, you have to understand that not only are  
5 moose distributed irregularly across the province,  
6 virtually every other species of wildlife is  
7 distributed irregularly across the province.

8 THE CHAIRMAN: But does it follow moose?  
9 In other words, for what you are protecting for moose--

10 DR. EULER: No.

11 THE CHAIRMAN: --does that mean that that  
12 wildlife will also not be in large quantities where  
13 moose are not in large quantities?

14 DR. EULER: No, no, but that is why --  
15 remember we talked about how we have to keep these  
16 monitoring programs going at the provincial level,  
17 because that is what is important, is at the provincial  
18 level that they are there somewhere.

19 Now, when you talk about the fact there  
20 are some areas where moose have very -- are relatively  
21 low in density, if you look at the Province of Ontario  
22 as a whole, those areas are relatively small per cent  
23 of the province you see. So by applying the moose  
24 guidelines over 70 to 80 per cent of the province, we  
25 do -- we meet our objective of having viable population

1 of the other creatures.

2 See, virtually everything that we talk  
3 about has to be kept in perspective, you see. You can  
4 talk about a problem in a local area, but what does  
5 that mean in the bigger area. For example, if you do a  
6 cut right in the middle of a moose's home range that  
7 particular moose is pretty upset by that cut, but it  
8 doesn't do much of anything to the provincial  
9 population of moose.

10 So we are always plagued by this problem  
11 of perspective and a problem elevated from a local area  
12 can look really bad when, in the overall context, it  
13 isn't that bad.

14 MR. TUER: Q. Carrying on from that,  
15 look at page 4 at the bottom of this page of the  
16 guidelines, please.

17 DR. EULER: A. Yes.

18 Q. Paragraph 4.0 Impacts of Timber  
19 Management on Moose. I am reading:

20 "In many situations the practise of good  
21 forest management is consistent with good  
22 wildlife habitat management."

23 A. Yes.

24 Q. "For example, disturbances of forest  
25 cover by timber harvesting will generally

1 create young growth that is a necessary  
2 element of moose habitat."

3 A. Yes.

4 Q. "If an adequate amount of shelter...  
5 namely for example unallocated areas,  
6 protection forest, remains nearby then  
7 good moose habitat can be provided."

8 A. Yes.

9 Q. "The challenge of integrating timber  
10 and moose management is to retain all of  
11 the are necessary vegetation components  
12 for moose while extracting the available  
13 merchantable timber."

14 A. Mm-hmm.

15 Q. "There is not usually a conflict over  
16 whether timber is harvested. It is a  
17 question of how and when harvesting  
18 occurs and the relative sizes of cut and  
19 uncut blocks that is of concern in moose  
20 habitat management."

21 Q. Now, you agree with that statement;  
22 do you.

23 A. Yes I do.

24 Q. You agree then that merchantable  
25 timber can safely be removed from areas of high moose

1 populations--

2 A. Yes.

3 Q. --even though the moose may be  
4 somewhat provoked about it at the time?

5 A. Yes.

6 Q. And in fact that may enhance the  
7 population?

8 A. Indeed. Indeed, it may enhance the  
9 population, particularly over the longer term.

10 Q. So as a matter of principle--

11 A. Mm-hmm.

12 Q. --as a senior biologist in the  
13 Ministry of Natural Resources, you agree with the  
14 philosophy expressed in this guideline?

15 A. Yes, I do.

16 Q. And that is -- in saying that, I take  
17 it you recognize that merchantable timber should not  
18 unnecessarily be left to rot on the stump when other  
19 values can be protected consistent with its removal?

20 A. I think that timber harvest can occur  
21 in an area and be also good for wildlife.

22 Q. Now, would you go to page 6, please,  
23 paragraph 5.1.1 headed Forest Access in the Boreal  
24 Forest Region.

25 A. Yes.



1 Q. "Where new access is created to  
2 harvest the forest, the potential for  
3 local overharvest of moose exists.  
4 Although legislation (eg. Public Lands  
5 Act, Game and Fish Act), may be used to  
6 inhibit or prevent hunting within these  
7 areas for either short or long periods of  
8 time, it tends to postpone problems of  
9 overharvest rather than solving them. In  
10 special cases where it is desirable to  
11 minimize hunting by controlling access,  
12 roads may be closed by signing or they  
13 may be kept away from the area of  
14 concern, or wood may be extracted using  
15 winter roads. As well, in some  
16 circumstances it may be appropriate to  
17 scarify and remove access roads after  
18 extraction is complete."

19 And then to page 19, at the second paragraph on the  
20 right-hand side it reads:

21 "Evidence to support the concern that  
22 large clearcuts, by themselves, have  
23 reduced Ontario's moose population is not  
24 convincing. The most instructive example  
25 is in the Chapleau Crown Game Preserve

1                   where intense logging and large clearcuts  
2                   both occur. Aerial inventories show this  
3                   area supports one of the highest moose  
4                   densities in Ontario."

5       You are familiar with that survey?

6                   A. Yes, I am.

7                   Q. You may have been involved in it?

8                   A. I wasn't actually in the airplane.

9                   Q. Okay. Well then, dropping down the  
10       paragraph starting:

11                   "Thus, while moose habitat in general may  
12                   not have been the very best, the major  
13                   causes of the moose decline have readily  
14                   involved hunting..."

15       And there is a familiar name.

16                   A. Yes, that famous name.

17                   Q. "...climate and perhaps predation  
18                   rather than habitat loss. Even though  
19                   managers did not believe habitat loss  
20                   was the most important cause of the herd  
21                   decline in Ontario, habitat management is  
22                   still an important technique for future  
23                   moose management.

24                   Despite the foregoing conclusion, it is  
25                   important to remember that logging

1 activities affect moose populations in  
2 two ways. They change vegetation but  
3 they also provide access to animals which  
4 would not otherwise be available to  
5 hunters. Three separate studies in  
6 Ontario have documented the problem of  
7 the impact of timber harvest on moose  
8 because of access roads, and all  
9 concluded that the access provided by  
10 logging roads was important in the herd  
11 decline.

12 An important component of the  
13 effort to change moose management is to  
14 establish how many moose can be carried  
15 on the available land area. The Chapleau  
16 Crown Game Preserve has not had  
17 hunting for some 50 years but has an  
18 active forest operation, involving  
19 some clearcuts over 4,000 hectares in  
20 size. Further, the wolf density is both  
21 normal for that part of Ontario.

22 It has been observed for some time from  
23 Ontario Ministry of Natural Resources  
24 aerial surveys that moose density on the  
25 Preserve is about .30-.35 moose per

1 square kilometre, about two times the  
2 density in most hunted areas outside the  
3 Preserve."

4 And I take it from your evidence last week that you  
5 consider that to be about ideal in the area of the  
6 undertaking?

7 A. I wouldn't use the word ideal; what I  
8 would use is, it is a reasonable --

9 Q. Realistic?

10 A. Realistic, yeah.

11 Q. All right.

12 A. That is a realistic population  
13 target.

14 Q. "Thus, managers concluded that this  
15 although this might not be the maximum  
16 carrying capacity, it did represent a  
17 reasonable judgment as to the ability of  
18 the land to support moose over the  
19 long term in the presence of predators.  
20 Similarly, Quetico Provincial Park in  
21 Northwestern Ontario showed moose  
22 densities in good habitat, with naturally  
23 regulated wolf populations but without  
24 hunting, approximately equal to Chapleau  
25 Preserve. From the 600,000 square

1 kilometres of moose range available,  
2 using a figure on the low side known  
3 capacity to carry moose, we expect a  
4 moose potential of at least 180,000  
5 animals.

6 In an effort to be realistic conservative  
7 and allow for unexpected events, the goal  
8 for the moose population was set at  
9 160,000 animals (approximately double the  
10 1982 herd size), but somewhat less than  
11 the present habitat can probably  
12 support."

13 Now, having said that, that would appear  
14 to me - and you will have to tell me if my  
15 understanding is correct - that the significant effect  
16 on moose populations is caused by hunters in the area  
17 of the undertaking?

18 A. In this case there was a very major  
19 decline in moose and that is what this is all referring  
20 to. That major decline was caused primarily by  
21 hunting, there is no doubt about that in my mind.

22 Now, that doesn't mean it is always  
23 hunting but, in this example which I was talking about,  
24 I believe the primary cause of the decline was hunting.

25 And I must add one thing here, I don't



1 want you to think that I am trying to paint hunters as  
2 bad guys here. The problem is, the Ministry didn't  
3 regulate it as effectively as we should have because  
4 they only did what the Ministry allowed them to do.  
5 That is an important distinction.

6 Q. I know, I appreciate what you are  
7 saying and I think we all agree that moose hunters are  
8 legitimate users of the forest.

9 A. Yes, yes.

10 Q. You accept that?

11 A. That is what I am trying to say, yes.

12 Q. But are they not a user of the forest  
13 that must be regulated?

14 A. Indeed, they must shall be regulated.

15 Q. And the absence of regulating hunting  
16 has been demonstrated in the dramatic decline in the  
17 moose population until such time as they were  
18 regulated?

19 A. Yes, that's correct. In Ontario,  
20 that's correct.

21 Q. And following regulation - and I  
22 gather from some remarks of Mr. Martel - a good deal of  
23 grumbling by hunters, the moose population has  
24 increased dramatically?

25 A. That's correct.

1 Q. And continues to increase?

2 A. It appears to be increasing, yes.

3 Q. And that has nothing to do, if the  
4 Chapleau District example is legitimate, it appears to  
5 have nothing to do with size of clearcuts?

6 A. Well, let's not say nothing to do  
7 with. This is a matter like all the others that we are  
8 talking about of perspective and relative concern.  
9 There is no question that hunting was the principal  
10 reason for the decline, but that doesn't lead us to  
11 conclude that clearcuts have absolutely no effect.

12 Q. I am not suggesting that.

13 A. Okay, good.

14 Q. What I am suggesting to you, Dr.  
15 Euler is, is that using the example from the guidelines  
16 which you were for a large part responsible for  
17 writing--

18 A. That is my debtless prose right there  
19 that you read.

20 Q. Yes. From what you have written  
21 yourself, that is a pretty good example of what I am  
22 suggesting; namely, that the moose's worst danger is  
23 man as a predator?

24 A. Well, in this case I certainly don't  
25 quarrel with you. I am a little bit -- I want to be

1 careful that you don't generalize this to always  
2 everywhere in the entire world. In this case, there is  
3 no question about it.

4 Q. All right.

5 A. And we also can't conclude from that  
6 that logging has no impact.

7 Q. I don't think anybody is suggesting  
8 that.

9 A. Okay.

10 MR. MARTEL: Well, could a side effect of  
11 that be the fact that they are so exposed?

12 DR. EULER: Oh sure.

13 MR. MARTEL: And then in terms of -- I  
14 mean, it's the hunting as you indicate.

15 DR. EULER: It is the bullet.

16 MR. MARTEL: But in fact at the same  
17 time, if you don't have cover--

18 DR. EULER: Yes.

19 MR. MARTEL: --they are more vulnerable.

20 DR. EULER: That is one of the problems,  
21 yeah, is the hunter can see them, he can drive because  
22 the road was put there by the logging company, so he  
23 can drive right there and then he's got a clear line of  
24 site to the moose and just the probability of him  
25 encountering one and shooting it is just much higher.

1                   And so that is why we had to go this very  
2                   painful process of regulating hunters and we said we  
3                   are sorry, but not everybody can go hunting and shoot a  
4                   moose or any kind of moose that you want.

5                   And for Canadians that was hard because  
6                   they had been used to many, many years just buying a  
7                   licence and going hunting and we put the clamps down  
8                   and we paid a heavy price in administrative costs and  
9                   in political costs.

10                  It was a very difficult series of events  
11                  but it is paying off and the moose population is coming  
12                  back.

13                  MR. TUER: Q. Well, just following along  
14                  on what Mr. Martel has said, is not - and I am going to  
15                  get into this in greater detail, but just touching on  
16                  it for the moment - where you have harvesting with lead  
17                  cuts if you will, or return cuts, or whatever label you  
18                  want to put on them, unless you regulate the hunter  
19                  very significantly, does that not cause the problem of  
20                  letting the hunter continue to have access to moose not  
21                  just until the time of the original harvest, but until  
22                  the lead cut itself was taken out, because you have to  
23                  continue to maintain those roads to get at the lead  
24                  cut?

25                  DR. EULER: A. Yes.



1 Q. So that compounds the problem unless  
2 you regulate the hunter?

3 A. That's right.

4 Q. And similarly - as Mr. Martel has  
5 indicated and I guess we've all heard stories about  
6 this - the hunting season opens where you have the  
7 moose corridors and you have the areas of uncut forest  
8 in the clearcuts and the moose are an easy target for  
9 hunters because the hunter can get in and the moose is  
10 exposed?

11 A. Yes.

12 Q. And that is another reason I suggest  
13 to you why the significant thing in protecting that  
14 moose or its viable numbers is to control and regulate  
15 the hunter?

16 A. Indeed, I agree with you.

17 Q. Speaking as I must, a layperson, you  
18 have a clearcut in the Chapleau District of a thousand  
19 hectares and which apparently has not had any  
20 deleterious effect on the moose population in that  
21 district. Where do the moose go?

22 A. Well, part of the time they are in  
23 the clearcut because that's their diningroom.

24 Q. Sure.

25 A. And the rest of the time they go into



1 the mature forest because that's their bedroom. So you  
2 can have big clearcuts.

3 Q. So they have a wide range?

4 A. Sure. What they have got to have is  
5 cover near that food source and they need the  
6 combination of vegetation; the bedroom next to the  
7 kitchen.

8 Q. You described them last week as  
9 generalists?

10 A. That's correct.

11 Q. They have a very wide range?

12 A. Indeed.

13 Q. And they can accept disruption well?

14 A. Mm-hmm.

15 MR. TUER: I have been told to speak into  
16 the microphone. Sorry.

17 Q. So this is not unlike what occurs in  
18 a natural harvest, if you will, like blowdown?

19 DR. EULER: A. Oh, isn't like that. I  
20 mean, gen --

21 Q. Unlike -- which is not unlike a  
22 timber harvest of a thousand hectares, if you will?

23 A. Well, a timber harvest of a thousand  
24 hectares can be a wide variety of things. In a jack  
25 pine sand flat it can virtually remove all the

1 vegetation. Other times, these things that we call  
2 clearcuts in fact leave all kinds of vegetation that  
3 are important to a moose.

4 The problem is clearcuts, what is a  
5 clearcut? Because in some areas and in some parts of  
6 the province it is one thing, virtually every stick of  
7 vegetation is gone; in other times you look at it and  
8 you say: That's a clearcut. And the reason is there  
9 is unallocated, there is residual, there is  
10 unmerchantable, there is little wet areas that they go  
11 around and in the --

12 THE CHAIRMAN: The reporter has to take  
13 this down.

14 DR. EULER: Oh, I am sorry, I'm getting  
15 excited here. Do I have to go over that again to  
16 make --

17 THE REPORTER: No.

18 DR. EULER: No, okay. I can remember  
19 being in the Chapleau Crown Game Preserve looking at  
20 that situation and studying it, and I am saying to my  
21 companion: This is a clearcut. I couldn't believe it.  
22 And they said: Yes, that's a clearcut. Because in  
23 that case all merchantable timber had been removed.  
24 But there were other things left, and it is producing  
25 some excellent moose habitat.

1 MR. TUER: Q. All right. I guess one of  
2 the problems we have in this discussion is how one  
3 define a clearcut?

4 DR. EULER: A. Yes, indeed we do.

5 Q. But just before we get into that  
6 discussion, come back to the natural harvesting by way  
7 of blowdown or wild fire or diseased forest that falls  
8 down. What does the moose do there?

9 A. Well, often he uses it and he sort of  
10 is very pleased to have it.

11 Q. But it is a different kind of range  
12 for him?

13 A. Well, often yes. A fire produces  
14 excellent food.

15 Q. Yes.

16 A. Blowdowns are a little harder for him  
17 to get through, but eventually there will be good moose  
18 habitat there.

19 Q. But he is used to disruption?

20 A. Oh indeed, yes.

21 Q. And in fact all of the other  
22 species -- vertebrate species that you spoke of last  
23 week, with the exceptions you mentioned, but most of  
24 them are used to that kind of disruption as well; are  
25 they not?

1 A. Yes, it's a natural part of the  
2 ecology of the forest.

3 Q. Yes. So in a way the harvesting by  
4 clearcut, depending what you mean by clearcut--

5 A. Right.

6 Q. --can mimic one or another kind of  
7 natural harvest?

8 A. Certainly it can, no question.

9 Q. And nature seems to respond and  
10 accept that?

11 A. Yes.

12 Q. Now, I hesitate to get into the  
13 discussion of what is a clearcut with you, but --

14 A. Well, yes, go ahead. I guess we have  
15 to do this.

16 Q. But it can vary; can it not?

17 A. Yes.

18 Q. It can vary from, as you say,  
19 removing the merchantable timber?

20 A. Yes.

21 Q. That's the normal thing; is it not?

22 A. In my experience, yes, I would say  
23 that's the normal thing.

24 Q. The industry doesn't want to -- if  
25 nothing else, doesn't want the expense of removing

1 timber that it has no use for?

2 A. Yes, that's very often the case.

3 Q. Unless it is necessary for regen or  
4 to get at the merchantable timber; is that fair?

5 A. Yes.

6 Q. Mr. Oldford, you are looking at me.  
7 Have you got a comment on that?

8 MR. OLDFORD: A. I just happened to be  
9 looking, sir. I believe that is very correct.

10 Q. It is a dangerous practice this  
11 morning.

12 THE CHAIRMAN: Close your eyes, Mr.  
13 Oldford.

14 MR. TUER: Q. I'm sorry, I thought you  
15 had a comment.

16 MR. OLDFORD: A. No, that's fine. I  
17 agree with you and I agree with Dr. Euler on that  
18 point.

19 Q. All right. Now, you have said in  
20 other circumstances a clearcut may involve, did you say  
21 leaving nothing on the ground?

22 DR. EULER: A. That can happen, yes.

23 Q. Those are areas that are being  
24 prepared for regen; are they not?

25 A. Yes, that's very often the case.



1 Q. Well, that's the intended case, is it  
2 not, in today's real world of timber harvesting?

3 A. Yes, it is all part of the whole  
4 process of silviculture and -- yes.

5 Q. Nobody in the area of the undertaking  
6 today goes in and cuts merchantable timber with the  
7 idea that they are leaving an area that's not going to  
8 regenerate. Do you agree with that?

9 A. I think it is their intention that it  
10 regenerate, yes.

11 Q. Yes, of course.

12 MRS. KOVEN: But not always by artificial  
13 means? The intention could --

14 MR. TUER: I am sorry?

15 MRS. KOVEN: The intention could be  
16 natural regeneration?

17 MR. TUER: It could be, whether it is  
18 artificial or natural regen.

19 DR. EULER: Yes, that's right.

20 MR. TUER: Yes.

21 THE CHAIRMAN: How would you get a  
22 situation where it wouldn't regenerate? I mean, how  
23 can you cut something and there won't be--

24 DR. EULER: Any regeneration at all.

25 THE CHAIRMAN: --natural regeneration of

1 some kind?

2 DR. EULER: Yeah. Well, I just can't  
3 think of one. Perhaps...

4 THE CHAIRMAN: Unless you sterilize the  
5 whole area with pesticides.

6 DR. EULER: Well, maybe some of my  
7 forestry colleagues would like to comment on that  
8 because they would have more knowledge than I would in  
9 that particular area.

10 THE CHAIRMAN: You've got three or four,  
11 jump for your microphone.

12 MR. OLDFORD: I'm the first one to get a  
13 live microphone.

14 In my experience, Mr. Chairman, I haven't  
15 seen an area in Ontario that has been harvested that  
16 has not regenerated given time, and if the area is left  
17 for natural regeneration the time period might be  
18 longer than artificial regeneration, but it will  
19 regenerate.

20 MR. MARTEL: Necessarily to what you  
21 want, though, is the question.

22 MR. OLDFORD: Probably not necessarily to  
23 species that we're using today in commercial quantities  
24 in mills today, but probably to a species that  
25 technology can change and adapt to use in the future.

1 MR. TUER: Q. Now, is it not the case,  
2 Dr. Euler, that in those circumstances the wildlife  
3 responds in exactly the way it does when there is  
4 natural harvesting?

5 DR. EULER: A. Yes, that is very normal  
6 and very common.

7 Q. You speak of the moose obtaining a  
8 different kind of -- would welcome fodder after a wild  
9 fire?

10 A. Mm-hmm.

11 Q. The same can occur where there is a  
12 clearcut?

13 A. Certainly, mm-hmm.

14 Q. And that's beneficial to the moose  
15 population?

16 A. That's very positive, yes.

17 Q. Now, I think we can agree that the  
18 forest is dynamic, it is not static; is that not so?

19 A. Oh yes, we can agree.

20 Q. And is it also true that it would be  
21 unwise to suggest that any one point in the  
22 successional process is more important than another?

23 A. Yes, it would be unwise to suggest  
24 that.

25 Q. They are all important; are they not?

1                   A. They are all important, that's right,  
2                   to somebody.

3                   Q. And they all -- it may not be the  
4                   same species but each succession supports its own  
5                   specie of wildlife?

6                   A. That's right.

7                   Q. And what may be good for the -- for  
8                   one species of bird may be not so good for the pileated  
9                   woodpecker?

10                  A. Yes.

11                  Q. A mature or overmature forest?

12                  A. That's right.

13                  THE CHAIRMAN: With one exception, Dr.  
14                  Euler, and would that be that if you are using the  
15                  featured species management techniques you wouldn't  
16                  want to cut out a successional stage that would affect  
17                  that particular specie?

18                  DR. EULER: Yes, that's also correct, Mr.  
19                  Chairman.

20                  THE CHAIRMAN: Otherwise you need a  
21                  measuring tool, would that be right?

22                  DR. EULER: That's correct, yes.

23                  MR. TUER: Q. But cannot that  
24                  successional stage be obtained in the surrounding  
25                  territory? In other words, one most look at it in a

1 broad basis rather than a local basis?

2 DR. EULER: A. Indeed that's one of the  
3 major points of my evidence, you have got to keep the  
4 perspective on everything that you do.

5 Q. Well, one does not impose a  
6 constraint or a restriction on, in this case timber  
7 harvesting, with the idea that one is going to create a  
8 habitat that's going to remain forever?

9 A. Yes.

10 Q. It is an evolving process, a  
11 successional process?

12 A. Mm-hmm

13 Q. Is that not so?

14 A. Yes. Oh, that's correct.

15 THE CHAIRMAN: Mr. Tuer, would you find a  
16 convenient place for a break, please.

17 MR. TUER: Sure. I can break right now.

18 THE CHAIRMAN: Very well. We will break  
19 for 20 minutes.

20 Thank you.

21 ---Recess taken at 10:353 a.m.

22 ---Upon resuming at 11:00 a.m.

23 THE CHAIRMAN: Thank you. Be seated,  
24 please.

25 MR. TUER: Q. First of all, as one whose



1 own name has been mangled in pronunciation or  
2 mispronunciation many times I apologize, Dr. Euler, in  
3 my mispronunciation of your name.

4 DR. EULER: A. No problem. It happens  
5 all the time. Even the Chairman has occasionally said  
6 that.

7 Q. Dr. Euler, we were speaking of a  
8 dynamic forest and if I understand your evidence  
9 correctly from last week, one must look at the effect  
10 of timber on the larger as opposed to a specific area?

11 A. Yes, that's correct.

12 Q. And one must look at features of the  
13 forest on a broad area rather than a specific area?

14 A. Yes.

15 Q. And that applies not only to moose  
16 populations and deer herds, but to the other  
17 vertebrates which are supported by that forest?

18 A. Yes.

19 Q. Now, I think you made brief reference  
20 to the WOSFOP model which is Exhibit 464. I don't  
21 intend to get into that in any great detail, but my  
22 understanding of that model which is used to calculate  
23 the maximum allowable depletion or MAD, is that it is  
24 designed to attain the unattainable; that is to say the  
25 perfect forest; is that right?

1                   A. Well, one of the foresters should  
2 respond to that because I don't have that much  
3 knowledge of WOSFOP.

4                   Q. That's what I am getting to, but is  
5 that your general understanding?

6                   A. Well, yes, based on, as you  
7 understand, that I am not an expert in WOSFOP.

8                   Q. Yes, it's dealing with the rotation  
9 of--

10                  A. Yes, that's correct.

11                  Q. --of age-classes?

12                  A. Mm-hmm.

13                  Q. Do you, or do your biologists use the  
14 WOSFOP in exercising your judgment on wildlife  
15 protection?

16                  A. Yes, where it is available to them  
17 and where the forester has used it as part of the  
18 process, then that's one of the tools that they would  
19 look at, yes.

20                  Q. They would look at it, but they  
21 themselves don't utilize it?

22                  A. No.

23                  Q. If there's information available from  
24 it, they might say: Well, I guess I can--

25                  A. Yes.

1 Q. --take advantage of that information.

2 A. Yes, that's right.

3 Q. --that is there--

4 A. Mm-hmm.

5 Q. --for whatever use it is?

6 A. That's right.

7 Q. Would it be fair to say that its use  
8 is not well understood by biologists?

9 A. Well, I am not sure exactly what you  
10 mean by not well understood by biologists.

11 Q. Well, you told me you don't  
12 understand it very well.

13 A. Well, I don't understand the model  
14 and I don't understand all the details of the model. I  
15 have a general sense of it and I know what the  
16 result -- see, the biologist would be concerned with  
17 the result as I showed in my evidence. That's what the  
18 biologist would be concerned about. And so he would  
19 accept the forester's production of the data and use  
20 that.

21 Q. What the biologist is looking at it  
22 for; is it not, is to try and get some idea of what the  
23 forest is going to look like in the future?

24 A. That's right, yes.

25 Q. Nothing more or less than that?

1 A. No, that's correct.

2 Q. All right. And that, perforce, has  
3 to be done on a rather broad area basis; does it not?

4 A. Oh, yes, indeed it does.

5 Q. Now, I want to put some things to you  
6 and see whether or not you agree with them as a  
7 scientist and a biologist.

8 First of all, I think you have already  
9 indicated that uncut corridors and blocks create traps  
10 for hunters and, accordingly, if one is going to  
11 control the population of moose as an example, one must  
12 surely control and regulate the hunter?

13 A. I certainly agree that one has to  
14 control and regulate the hunter, yes, no question about  
15 this. Now, I am not prepared to agree that corridors  
16 represent traps.

17 Q. Well, have you ever been out in the  
18 bush when the moose season opened and seen the hunters  
19 standing around the moose corridors?

20 A. Indeed I have.

21 Q. I wonder why they are? They are  
22 there because they know there is a moose in there.

23 A. Indeed they do.

24 Q. Well, doesn't that create a --

25 A. I wouldn't characterize that as a

1 trap, no.

2 Q. All right. It's a less than safe  
3 situation for the moose though?

4 A. Well, it certainly gives -- the  
5 hunter has an advantage primarily because of the line  
6 of sight vision and the access to the area.

7 Q. Sure. And similarly when we have, as  
8 I indicated before, the maintenance of rows long after  
9 the initial cut has been completed, it puts additional  
10 pressure on moose unless the hunter is regulated?

11 A. That's correct.

12 Q. Now, you have indicated that you  
13 recognize your responsibility to balance the interest  
14 of various users of the forest including people who  
15 harvest timber.

16 Where you have a three to five-acre  
17 island, if you will, left in a clearcut, that's one of  
18 the matters that is specified in the guidelines--

19 A. Yes.

20 Q. --of mature timber. First of all,  
21 does it have to be mature timber?

22 A. In this patch. Well, no, it doesn't  
23 have to be.

24 Q. It has to be cover; does it not?

25 A. Yes, it should be large enough to be



1 cover, yes.

2 Q. And similarly, there is no reason  
3 why -- I think it is already indicated in the  
4 guidelines, there is no reason why that role cannot be  
5 filled by unmerchantable timber?

6 A. That's correct. We did specify in  
7 the guidelines a basal area, as you may have noted.

8 Q. Yes. That's the density of the  
9 stocking on the area in question?

10 A. Mm-hmm, yes. Yeah, sure. But we  
11 didn't specify this species or whether they be  
12 merchantable or mature or immature. It does have to be  
13 thick enough to provide some protection.

14 Q. And it has to be somewhere within the  
15 moose's range?

16 A. That's correct.

17 Q. And there is no magic as to a  
18 specific location?

19 A. No, no.

20 Q. And, again, balancing the interests  
21 of the various forest users, I suggest to you that  
22 there is a risk and, indeed it is more than a risk, it  
23 is a sometime fact, that that timber is never  
24 harvested, the islands -- the three to five acres that  
25 are left in the clearcut because it is not economical

1 to harvest?

2 A. Yes, that's correct.

3 Q. And also to do so, apart from the  
4 fact that it's not economical, it messes up the  
5 regeneration of the first cut?

6 A. Yes.

7 Q. So in essence, in balancing the  
8 interests of removing merchantable timber in any  
9 particular area, would a responsible biologist take  
10 into account whether he can achieve what he is seeking;  
11 that is to say, late winter cover for moose in some  
12 other fashion than leaving an island three to five  
13 acres of merchantable timber in the middle of the  
14 clearcut?

15 A. Yes, mm-hmm, absolutely.

16 Q. All right. Similarly, is it not the  
17 case that a certain species of tree at least, that  
18 there is a very strong tendency for those trees that  
19 are left in an open, isolated area like that to blow  
20 down?

21 A. That often happens, yes.

22 Q. So what is hoped to have been  
23 achieved in fact is not achieved?

24 A. No. Now, that conclusion isn't  
25 correct, because blowdown does not necessarily mean bad

1 for wildlife. See, you may lose the merchantable  
2 timber there, but the tangle, the subsequent vegetation  
3 may still have wildlife value.

4 Q. Sure. But wait a minute, I thought  
5 we were talking about, as the guidelines speak of it,  
6 leaving an area of forest cover for the moose during  
7 the late winter?

8 A. Well --

9 Q. Is that not the purpose of it?

10 A. Okay. No, those shelter patches are  
11 not really late winter habitat. Late winter habitat  
12 are extensive tracts of mature forest and that's a  
13 little different than what the shelter patches are.

14 Q. Does it have to be mature forest or  
15 cover?

16 A. Well, as far as I know. I don't know  
17 of any cases where late winter habitat is not mature  
18 timber. See, what they need in late winter is they  
19 need protection from weather elements and predators.

20 Now, if they can achieve that in  
21 something less than mature, that's okay. I don't know  
22 of any cases where that has happened.

23 Q. Well, let's get back to the shelter  
24 areas.

25 A. The shelter patches, yes.

1 Q. Shelter patches.  
2 A. Yes.  
3 Q. Three to five acres?  
4 A. Hectares, yes.  
5 Q. Hectares, rather, sorry. It blows  
6 down --  
7 A. You're saying if it does blow down,  
8 yes?  
9 Q. Well, let's assume it blows down.  
10 A. All right.  
11 Q. Is it still a shelter patch?  
12 A. Well, it may be. In my opinion -- or  
13 in my experience when you have blowdown it doesn't  
14 necessarily mean that the value of that shelter patch  
15 has been lost to the wild animals that are there  
16 because often every single tree may not be toppled  
17 over, the resulting tangle and subsequent regrowth of  
18 vegetation can have value to wildlife.  
19 Q. Well, I accept that it can have value  
20 to wildlife, but is a moose going to use that shelter  
21 patch for the same purpose if there is a blowdown as it  
22 used it prior to blowing down?  
23 A. Well, it might, yes.  
24 Q. Okay.  
25 A. It might, sure, because they are in

1 there for cover and that gives them some protection  
2 against hunters, some protection against wolves.

3 Q. So if the blowdown is not sufficient  
4 to lose the cover, it still serves that purpose?

5 A. Sure.

6 Q. But not otherwise?

7 A. Sure.

8 Q. All right. So it may or it may not  
9 serve that purpose?

10 A. Yeah, it may or it may not, right.

11 Q. Now, again when we're talking about  
12 return cuts or leave cuts, there is in the guideline a  
13 specification of two metres and six metres; am I right?

14 A. Yes, there is.

15 Q. Now, what is the significance of the  
16 two metre measurement?

17 A. Well, that's judged to be an adequate  
18 height for the moose to be obtain line of sight  
19 protection against some of its enemies.

20 Q. And the six metre is to give them  
21 full cover?

22 A. Yeah, against weather conditions,,  
23 snow, temperature and so on.

24 Q. Now, that doesn't have to be uniform  
25 throughout the area; does it?



1 Q. --take advantage of that information.

2 A. Yes, that's right.

3 Q. --that is there--

4 A. Mm-hmm.

5 Q. --for whatever use it is?

6 A. That's right.

7 Q. Would it be fair to say that its use  
8 is not well understood by biologists?

9 A. Well, I am not sure exactly what you  
10 mean by not well understood by biologists.

11 Q. Well, you told me you don't  
12 understand it very well.

13 A. Well, I don't understand the model  
14 and I don't understand all the details of the model. I  
15 have a general sense of it and I know what the  
16 result -- see, the biologist would be concerned with  
17 the result as I showed in my evidence. That's what the  
18 biologist would be concerned about. And so he would  
19 accept the forester's production of the data and use  
20 that.

21 Q. What the biologist is looking at it  
22 for; is it not, is to try and get some idea of what the  
23 forest is going to look like in the future?

24 A. That's right, yes.

25 Q. Nothing more or less than that?

1 A. No, that's correct.

2 Q. All right. And that, perforce, has  
3 to be done on a rather broad area basis; does it not?

4 A. Oh, yes, indeed it does.

5 Q. Now, I want to put some things to you  
6 and see whether or not you agree with them as a  
7 scientist and a biologist.

8 First of all, I think you have already  
9 indicated that uncut corridors and blocks create traps  
10 for hunters and, accordingly, if one is going to  
11 control the population of moose as an example, one must  
12 surely control and regulate the hunter?

13 A. I certainly agree that one has to  
14 control and regulate the hunter, yes, no question about  
15 this. Now, I am not prepared to agree that corridors  
16 represent traps.

17 Q. Well, have you ever been out in the  
18 bush when the moose season opened and seen the hunters  
19 standing around the moose corridors?

20 A. Indeed I have.

21 Q. I wonder why they are? They are  
22 there because they know there is a moose in there.

23 A. Indeed they do.

24 Q. Well, doesn't that create a --

25 A. I wouldn't characterize that as a

1 trap, no.

2 Q. All right. It's a less than safe  
3 situation for the moose though?

4 A. Well, it certainly gives -- the  
5 hunter has an advantage primarily because of the line  
6 of sight vision and the access to the area.

7 Q. Sure. And similarly when we have, as  
8 I indicated before, the maintenance of rows long after  
9 the initial cut has been completed, it puts additional  
10 pressure on moose unless the hunter is regulated?

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13 in my experience when you have blowdown it doesn't

14 necessarily mean that the value of that shelter patch

15 has been lost to the wild animals that are there

16 because often every single tree may not be toppled

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20 to wildlife, but is a moose going to use that shelter

21 patch for the same purpose if there is a blowdown as it

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23 A. Well, it might, yes.

24 Q. Okay.

25 A. It might, sure, because they are in

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2       against hunters, some protection against wolves.

3                   Q.   So if the blowdown is not sufficient  
4       to lose the cover, it still serves that purpose?

5                   A.   Sure.

6                   Q.   But not otherwise?

7                   A.   Sure.

8                   Q.   All right.   So it may or it may not  
9       serve that purpose?

10                  A.   Yeah, it may or it may not, right.

11                  Q.   Now, again when we're talking about  
12       return cuts or leave cuts, there is in the guideline a  
13       specification of two metres and six metres; am I right?

14                  A.   Yes, there is.

15                  Q.   Now, what is the significance of the  
16       two metre measurement?

17                  A.   Well, that's judged to be an adequate  
18       height for the moose to be obtain line of sight  
19       protection against some of its enemies.

20                  Q.   And the six metre is to give them  
21       full cover?

22                  A.   Yeah, against weather conditions,,  
23       snow, temperature and so on.

24                  Q.   Now, that doesn't have to be uniform  
25       throughout the area; does it?

1 A. No.

2 Q. And that is then again something  
3 that's rather judgmental; is it not?

4 A. Indeed it is a judgmental call, yes.

5 Q. As to whether or not a particular  
6 area has sufficiently regenerated to enable the company  
7 to go back and remove the leave cut?

8 A. That's correct.

9 Q. Who makes that decision, the district  
10 forester of the management unit?

11 A. Yes, in concert with his colleagues,  
12 yes.

13 Q. All right. Next, does the acreage,  
14 or whatever the equivalent is in hectares, for late  
15 winter cover depend upon the moose population that  
16 intends to use it or the deer herd?

17 A. I don't quite understand your  
18 question.

19 Q. Well, you say there has to be a late  
20 winter cover--

21 A. Yes.

22 Q. --for the moose.

23 A. Right.

24 Q. And you spoke also in the deer  
25 guidelines of deer yards.

1 A. Yes, mature conifer cover, yes.

2 Q. Now, what determines the size of that  
3 cover?

4 A. Well, a judgment call of the  
5 biologist and the forester working together. We don't  
6 have in our guidelines any specifications of size.

7 Now, we have in the deer guidelines a  
8 specification of per cent of the general area, 15 per  
9 cent of the general area, but we haven't spoken to the  
10 size issue directly in any of our guidelines.

11 Q. So that is very much judgmental, that  
12 figure?

13 A. Yes.

14 Q. And that's something that would have  
15 to be determined by the biologist on the spot?

16 A. Yes.

17 Q. And he would have to have some idea  
18 of what the population was?

19 A. Yes, indeed.

20 Q. Now, having said all of that, you  
21 discussed last week the interim measures that were  
22 being imposed as to size of clearcut without regional  
23 or ADM approval. I have read the transcript and I am  
24 not sure I am clear as to what the directive is.

25 First of all, is there a directive in the



1 field now?

2 A. I am not sure if it is actually in  
3 the field presently at this moment. If it isn't, it  
4 will be there very soon.

5 THE CHAIRMAN: What exactly, Mr. Tuer, is  
6 the directive you are referring to?

7 MR. TUER: As to the interim application  
8 of the guidelines during the two-year estimated  
9 training period for district managers and district  
10 biologists.

11 Q. Would you just again repeat what the  
12 substance of the directive is, please?

13 DR. EULER: A. Yes, I will. And what I  
14 will do is I will try to use very simple language and I  
15 will try to forget that I am a bureaucrat for a moment  
16 and just speak to this conceptually and then, if you  
17 want to, we can get into the exact words and we can all  
18 get bureaucratic.

19 First, the intent of the direction is to  
20 have everyone reach a common understanding about  
21 application of the moose guidelines. The convenient  
22 tool that we have, the convenient handle that we use as  
23 a tool of understanding is clearcut size.

24 And what we are saying is: When clearcut  
25 sizes exceed two times the recommendation sizes in the

1 guidelines; i.e., twice 130 hectares, the Regional  
2 Director should review this information.

3 Now, we haven't said to the Regional  
4 Director exactly what he should do because the Regional  
5 Director, after all, will have to then make an  
6 intelligent decision about what to do.

7 However, what we have said then is: If  
8 these cuts exceed twice the guidelines in an area that  
9 is to be harvested that exceeds 40 per cent, then there  
10 must be ADM approval.

11 So in essence what we are saying is, if  
12 clearcuts reach this large stage over substantial parts  
13 of the area, then the ADM north must approve it.

14 Q. That's the concept. Do you have a  
15 written directive?

16 A. Yes, we do and, unfortunately, it  
17 slipped out of my folder. So perhaps I can get one and  
18 I'll read you the paragraph and we can then descend  
19 into bureaucratic discussions of exactly what it means.

20 MS. SWENARCHUK: Mr. Chairman, could we  
21 have copies of the document?

22 THE CHAIRMAN: Are they available at this  
23 point?

24 MR. FREIDIN: No. I think Dr. Euler  
25 indicated that he's not sure that the direction is out.

1 I think maybe what Dr. Euler has seen is a draft.

2 THE CHAIRMAN: Well, if we are going to  
3 discuss the draft, is the draft available?

4 MR. FREIDIN: No, it is not available at  
5 the moment, Mr. Chairman. I don't think it's opportune  
6 to do that. Given the final direction will be out  
7 shortly, I would suggest that we don't accept the draft  
8 for discussion of the direction which is given in the  
9 field document to the contemplated direction at one  
10 point in time.

11 I don't think that is helpful at all and  
12 we have taken that position before and I repeat it.

13 MR. TUER: I don't understand.

14 MS. SWENARCHUK: Mr. Chairman, I believe  
15 that this matter was put before the Board last week in  
16 Dr. Euler's testimony. Certainly all of us, given the  
17 amount of discussion we have all had about moose  
18 guidelines, are extremely interested in this  
19 development and I see no benefit whatever in waiting  
20 some undetermined time period.

21 It is here now, we really cannot -- we  
22 really are not in a position to cross-examine Dr. Euler  
23 on the moose guidelines without this document.

24 THE CHAIRMAN: Mr. Freidin and Mr. Tuer,  
25 it is the Board's opinion that in this case, since

1 evidence has been led on the guidelines, we should --  
2 and there is no harm at this point, in looking at the  
3 draft wording and should the directive come out at a  
4 future date with changed wordings, we can deal with it  
5 at that time.

6 We are dealing with the evidence on the  
7 moose guidelines essentially with this panel and there  
8 seems to be no reason why we should wait to some  
9 unspecified time when a direction may or may not issue  
10 formally.

11 So I think, Mr. Tuer, your questions --  
12 if you wish to put them on this draft, we can handle it  
13 by -- you have one copy here; do you not, at the  
14 moment?

15 DR. EULER: Well, I don't have a personal  
16 copy, Mr. Chairman, because it is in such a state of  
17 change that I don't have that. So I am not sure we  
18 have one at the table or not.

19 MR. FREIDIN: If Mr. Tuer is going to go  
20 by lunch, maybe we will get the wording and provide it  
21 then.

22 THE CHAIRMAN: All right. Why don't we  
23 do that, Mr. Tuer? Let the Ministry provide the  
24 wording over the lunch hour, not just to you but I  
25 would suggest to the other parties as well, and then



1 perhaps you could save your questions on that  
2 particular document until after the lunch hour.

3 MS. SWENARCHUK: Could I just clarify. I  
4 assume by wording Mr. Freidin means we will receive the  
5 entire draft policy, not merely the paragraph that Dr.  
6 Euler was about to refer to?

7 MR. FREIDIN: My intentions are to  
8 provide a copy of the draft -- that portion of the  
9 draft that deals with the 40 to 60 per cent, the area  
10 which was in fact the subject matter of the discussion  
11 and the evidence.

12 MS. SWENARCHUK: Mr. Chairman, I won't  
13 pre-empt my friend Mr. Tuer, but certainly with respect  
14 to my cross-examination I am interested in the entire  
15 draft order and, as Mr. Freidin and other counsel have  
16 said here at various times, it is often not clearly  
17 helpful to only see part of the document and not have  
18 the option of seeing all of it.

19 I suppose option, if there is an  
20 objection to producing it now, would be once again to  
21 think about recalling Dr. Euler at some later time, and  
22 I am sure we all want to avoid that.

23 THE CHAIRMAN: Well, Mr. Freidin, is  
24 there any particular problem with logistically being  
25 able to produce the entire draft directive?



1                   MR. FREIDIN: Logistically there is no  
2 problem, I can't indicate there is a problem with that.

3                   I say again, decisions are made by  
4 decision-makers and all kinds of things get stated and  
5 put in documents. I do not, I repeat, believe that it  
6 is necessary to have a cross-examination of Dr. Euler  
7 on this subject matter for us now to produce a draft  
8 document which has in it -- deals with subject matters  
9 which weren't the subject matter of evidence.

10                  I will produce the draft or that portion  
11 of the draft direction which deals with the  
12 contemplated 40 to 60 per cent issue and the reporting  
13 in relation to exceeding two times the guideline.

14                  THE CHAIRMAN: But does not this draft  
15 document, Mr. Freidin, really clarify the application  
16 of the guidelines themselves?

17                  MR. FREIDIN: Not unless it becomes a  
18 direction, Mr. Chairman. It is a draft.

19                  MRS. KOVEN: Well, what else could  
20 possibly be in this direction other than the issue of  
21 how to apply the guidelines in the interim?

22                  MR. FREIDIN: I can't advise you all the  
23 things that may be in this draft, it is a number of  
24 pages I believe.

25                  THE CHAIRMAN: Well, the Board fails to

1       see what the big secret is. I mean, the point is, is  
2       if you produce the draft directive and if you want to  
3       clearly state at a later point in your case when the  
4       actual directive comes out that there are changes from  
5       the draft and that a subsequent re-thinking of the  
6       draft led to future changes, you are not prejudiced in  
7       any way from doing that, Mr. Freidin, and the parties  
8       at that point will be confined to questioning you on  
9       the directive as it is promulgated in its final form  
10      and they may wish to contrast something which is  
11      contained in the draft.

12                   But this panel is comprised of experts,  
13      particularly Dr. Euler who is testifying on the  
14      application of these guidelines before us, and if there  
15      is further documents or further thinking of the  
16      Ministry that sheds some light on how they should be  
17      applied, why shouldn't the Board have that before it at  
18      this time?

19                   MR. FREIDIN: Well, Mr. Chairman, you  
20      have my submissions and I will acede to your direction.

21                   THE CHAIRMAN: Okay. I think the Board  
22      would like the document in its entirety produced as  
23      soon as possible and, in particular, at least over the  
24      lunch hour, that portion of the document relating to  
25      the percentages recently discussed so that Dr. Euler

1 can be questioned by Mr. Tuer after lunch.

2 MR. TUER: Don't get me wrong, I only  
3 raised it because I read the transcript and I didn't  
4 understand what was said last week and I don't like  
5 things in transcripts that I don't understand.

6 THE CHAIRMAN: Well, Mr. Tuer, apart from  
7 your particular purposes I think some of the other  
8 parties are also interested in the same subject matter.

9 MR. TUER: I am sure that is the case.

10 Q. So we will leave that for now, Dr.  
11 Euler, and go to featured species management, that is  
12 Exhibit 433.

13 DR. EULER: A. Is that the paper  
14 Featured Species Management? Yes.

15 Q. Your paper.

16 A. Yes, I have that here, mm-hmm.

17 Q. Yourself and Mr. Baker's.

18 A. Yes.

19 Q. Just on page 3 -- actually starting  
20 at the bottom of page 2 it reads:

21 "If, for example, 80 per cent of the  
22 habitat needs of the 309 terrestrial  
23 vertebrates in forest management units  
24 are taken care of by featured species  
25 management, the task of providing for the

1                   other 20 per cent is far more  
2                   manageable."

3                   Last week the percentages we heard were  
4       70/30. Is there some significance to the discrepancy?

5                   A. Well, there is no discrepancy. This  
6       is simply an example. You note, this is an  
7       introductory part of the paper where it says:  
8       Assumptions of Featured Species Management, and what we  
9       have simply said is: If, for example.

10                  Now, the rest of the paper then deals  
11       exclusively with what we think is actually happening  
12       in Ontario.

13                  Q. Well, do you use 70/30 in this paper?

14                  A. Yes, indeed.

15                  Q. Where is that?

16                  A. Well, okay. Well, maybe actually I  
17       may be wrong and we never actually used 70/30 in this  
18       paper. We talk about that in the evidence that we led,  
19       but I may be wrong that it -- the word 70 per cent may  
20       not actually be in this paper. In any case, I can't  
21       find it right at the moment.

22                  Q. Well, perhaps you would take a look.

23                  A. Yes, I will.

24                  Q. Otherwise I am a little bit mystified  
25       as to why you would use an example which does not



1 reflect the fact.

2 A. Well, just to show the concept that  
3 we are talking about, about why featured species  
4 management is a useful technique, that is all. I mean,  
5 I could have said 20 per cent or 60 or 80 or 95, it  
6 wouldn't matter. It is just to illustrate a general  
7 concept.

8 Q. I appreciate that but one normally  
9 uses examples of reality not something that is not  
10 real; do they not?

11 A. Well, I think this is a very  
12 realistic example. I don't think it is unrealistic at  
13 all.

14 Q. Well, which is it; is it 20 per cent  
15 or is it 30 per cent?

16 A. In my view, it is approximately 30  
17 per cent as I led in my evidence.

18 Q. Yes, that is what you said in your  
19 evidence. Whose figure was 20 per cent; is that yours  
20 or Mr. Baker's?

21 A. 20 per cent, as it is written on page  
22 3, is both Mr. Baker's and mine.

23 Q. Who wrote that?

24 A. I did.

25 Q. Well, why did you use a figure of 20



1 per cent?

2 A. Well, because I didn't think it was  
3 so confusing. I thought it was quite clear.

4 Q. Now, go to page 1. I am going to  
5 read some of this stuff with you. The second  
6 paragraph:

7 "A major problem in trying to achieve  
8 wildlife objectives is that it is  
9 impossible, from a practical point of  
10 view, to manage for all wildlife species  
11 in all areas of the province. At least  
12 309 vertebrates according to Mr.  
13 Baker..."

14 Is it Mr. Baker or Dr. Baker?

15 A. Dr. Baker.

16 Q. "...Dr. Baker inhabit forest  
17 management units in Ontario and each of  
18 them has unique habitat preferences. If  
19 the unique habitat preferences of each of  
20 these species were considered in the  
21 timber management planning process, the  
22 complexity would be overwhelming and  
23 there would be difficulty resolving  
24 conflicting needs of various species.  
25 To deal with these problems the Ministry

1 practises featured species management.

2 In Ontario, the featured species is moose  
3 or deer, threatened and endangered  
4 species and other species featured on a  
5 local basis."

6 And in dealing in your evidence last week  
7 with moose or deer you referred to them as generalists.

8 A. That's correct.

9 Q. Because they have a wide range?

10 A. That's correct.

11 Q. And they adapt very well to  
12 disruption, whether natural or man-made?

13 A. That's correct.

14 Q. And going on to page 2:

15 "As well, the significance of a decline  
16 or increase in the population of a  
17 particular species should be judged  
18 against the objectives of, first, the  
19 province and, second, the regional or  
20 local area.

21 At the provincial scale, at  
22 a minimum, it is required that viable  
23 populations of native wildlife be  
24 maintained. Other wildlife concerns may  
25 require additional management objectives

1 to be implemented at the provincial,  
2 regional or local level."

3 And further down:

4 "The scale of change over time and space  
5 is also important. A 100 hectare  
6 clearcut in northern Ontario, for  
7 example, may have a negative impact on  
8 one or two moose that live in that area  
9 in the shorter term, however, when viewed  
10 from the perspective of the provincial  
11 moose herd, the result may be positive  
12 because of the habitat mosaic created by  
13 this activity.

14 This broad perspective is consistent with  
15 the Ministry of Natural Resources  
16 approach to managing wildlife habitat  
17 across the province.

18 Although some wildlife may suffer  
19 negative impacts in a small area for a  
20 relatively short time, application of the  
21 guidelines over each forest management  
22 unit where moose or deer are a concern  
23 will ensure that wildlife populations are  
24 maintained and enhanced over all forest  
25 management units in the province."

1 I take it that that is a benchmark of  
2 your position respecting wildlife in the region of the  
3 undertaking?

4 A. Yes.

5 Q. And that one must look at it very  
6 broadly when determining the viability of these various  
7 309 species?

8 A. That's correct.

9 Q. Now, going to page 4, beginning with  
10 the Boreal Forest Region, it reads:

11 "Where timber harvest operations are to  
12 result in clearcuts exceeding 130  
13 hectares, shelter patches should possibly  
14 be left within the cut area. These  
15 shelter patches of conifer or mixed wood,  
16 with at least one third conifer, should  
17 be distributed throughout the cut area or  
18 the cut should be shaped so that a moose  
19 is always within 200 metres of shelter.  
20 Generally a cut should not exceed 400  
21 metres in width. Shelter patches within  
22 a cut should be three to five hectares in  
23 size, 300 to 400 metres apart, and at  
24 least six metres high. These patches can  
25 be cut when regeneration reaches two

1 metres in height, but if late winter  
2 habitat is in short supply, the patches  
3 should not be cut until regeneration is  
4 six metres high."

5 And down to the last sentence in that  
6 paragraph:

7 "In late winter shelter areas, uncut  
8 areas equal in size to cut areas should  
9 be left."

10 Now, is that intended to be a repeat of  
11 what is in the guidelines, or is that a paraphrase, or  
12 what is it?

13 A. Yes, it is simply a summary of the  
14 Moose Habitat Guidelines as a convenience to the  
15 reader.

16 Q. What do you mean in late winter  
17 shelter areas uncut areas equal in size to cut areas  
18 should be left?

19 A. Well, in areas that have been  
20 identified -- clearly identified as late winter moose  
21 winter shelter areas, optimal habitat is to have about  
22 50 per cent cut and removal and then come back and get  
23 the other wood when the regeneration has reached two  
24 metres--

25 Q. Well --



1                   A. --in size. This indicates six  
2 metres. It just depends on the circumstance.

3                   Q. Who judges the size of the area?

4                   A. You mean the areal extent?

5                   Q. The area, who judges it?

6                   A. Well --

7                   Q. Uncut areas equal in size to cut  
8 areas should be left. What do you mean by that?

9                   A. Well, if you cut a hundred hectares  
10 then you should leave a hundred hectares uncut. If you  
11 cut 200 hectares, you should leave 200 hectares uncut.

12                   Q. But where are the uncut hectares to  
13 be?

14                   A. Nearby.

15                   Q. Is that a matter of judgment as to  
16 where they are?

17                   A. Yes, indeed.

18                   Q. So what I am trying to get at is, the  
19 periphery of the area in question is a matter of  
20 judgment for the district manager; is it?

21                   A. Yes, mm-hmm. Yes, indeed, mm-hmm.

22                   Q. The district biologist?

23                   A. And these are intended to just be  
24 principles to guide his actions.

25                   Q. So taking your earlier example of a

1 jack pine forest in the sand flats of the boreal  
2 forest, that could be a very broad area; could it not?

3 A. It is possible, certainly, but a jack  
4 pine sand flat would not likely be a moose later winter  
5 concentration area. It would be extremely unusual.

6 Q. Because there are no moose there?

7 A. Virtually no moose there, that's  
8 right.

9 Q. All right. Now, that brings me to  
10 the next point. When you speak of featured species  
11 management, at the present time you have got two  
12 featured species?

13 A. Two provincially featured species,  
14 yes.

15 Q. And did you indicate that you -- you  
16 said something last week about caribou. Was that  
17 intended to become a featured species?

18 A. Well, possibly. We're talking about  
19 it and that is a potential featured species, yes. We  
20 are weighing the pros and cons of that right now.

21 Q. That would be a provincial specie?

22 A. That is a very real possibility.

23 Q. What parts of the province are  
24 caribou found in?

25 A. Well, very far north, mostly beyond

1 the area of the undertaking, but not -- they do occur  
2 in the northern parts of the area of the undertaking.

3 Q. Why would you make the caribou a  
4 featured provincial species when it is found in such a  
5 small area of the undertaking?

6 A. Well, the decision to make something  
7 a featured species is a decision that is carried on of  
8 itself; it is not made relative to forest management  
9 necessarily. And it is also true that some caribou  
10 range is in the area of the undertaking.

11 Q. Sure, I understand that, Dr. Euler,  
12 but I am having trouble understanding why you would  
13 make it a provincial featured specie when it is found  
14 in such a miniscule area of the province and of the  
15 area of the undertaking.

16 A. Well, you make something a featured  
17 species for a number of reasons, simply because it is  
18 judged to be important: It is an important part of the  
19 ecology of Ontario, it is an animal valued by  
20 Canadians, it is part of our historic tradition, and  
21 many people feel it is very important and that we  
22 should work to ensure that its populations are  
23 certainly viable and perhaps increasing.

24 Q. Nobody is going to argue with that.  
25 But why would you make it a provincially featured

1 species with the guidelines affecting the entire  
2 province, rather than making it a specie that is  
3 protected in the local habitat where it lives?

4 A. Oh well, that is an option. We might  
5 do that. No decisions have been made.

6 Q. Okay.

7 A. We are just reviewing the pros and  
8 cons of all those issues right now.

9 Q. So there is not necessarily any  
10 reason why it has to be provincial?

11 A. No, it doesn't have to be. There are  
12 certain reasons why you might and certain reasons why  
13 you might not.

14 Q. Well, why would you make it a  
15 provincially featured species?

16 A. Well, I think I went over those. It  
17 is an important animal to many Canadians, it is part of  
18 our historic tradition, it is an important animal for  
19 many reasons.

20 And so we might, in the discussions,  
21 decide that it is important to feature it as an animal  
22 that is managed for and we might take management  
23 actions that have nothing to do with forestry in order  
24 to encourage its populations to grow.

25 Q. All right. Why would you impose



1       those conditions on the area around Renfrew, if you  
2       would?

3                   A. Oh well, we wouldn't, we wouldn't.  
4       If there is no caribou there, you can't very well  
5       impose conditions on it.

6                   See, being provincially featured doesn't  
7       mean it occurs everywhere. There are no moose in the  
8       southern part of Algonquin Region either, and so we  
9       don't -- moose is provincially featured, but if there  
10      are no moose in the district, we don't do anything to  
11      enhance their management.

12                  Q. So if you are in an area of the  
13      province where there are no moose, you look at the  
14      guidelines as you are obliged to do and you'd say:  
15      Well, so far as moose habitat is concerned, we don't  
16      have to worry about the 130 hectare clearcut so far as  
17      moose are concerned because there are no moose here?

18                  A. Oh yes, of course. Sure.

19                  Q. So if you have some constraints on  
20      harvesting as a result of making the caribou a  
21      provincially featured specie, you would only apply  
22      those constraints in the area where there were moose --  
23      where there were caribou?

24                  A. Right.

25                  Q. That clears that up. And who makes



1       that decision?

2                   A.   That would be made by a group of  
3       people within the Ministry who are biologists and then  
4       that would be recommended to senior management and  
5       eventually senior management would approve it.

6                   Q.   So if you had a booklet called  
7       caribou guidelines and you happen to be dealing with an  
8       area in the Algonquin forest--

9                   A.   Mm-hmm.

10                  Q.   --your district manager would look at  
11       those guidelines and he would say:  They don't apply?

12                  A.   Yes.

13                  Q.   And if you have your moose guidelines  
14       and you are in an area where there are no moose, you'd  
15       say:  I am looking at them, but I know there are no  
16       moose here--

17                  A.   Right.

18                  Q.   --so...

19                  A.   I wouldn't use them, that's right.

20                  Q.   Similarly with the deer guidelines?

21                  A.   That's right.

22                  Q.   There are areas of the province where  
23       there not now and never will be more than a deer?

24                  A.   That's right, that's right.

25                  Q.   Once that fact is accepted, you

1 ignore it?

2 A. Well, we wouldn't use them, that's  
3 right.

4 Q. All right. You wouldn't use them.

5 All right. What is the bureaucratic process when that  
6 decision is made?

7 A. Which decision?

8 Q. That there are no caribou in  
9 Algonquin Park so we are not -- Algonquin region so we  
10 are not going to apply caribou guidelines as a  
11 hypothesis?

12 A. Well, the district manager and the  
13 district biologist. I mean, it is fairly obvious, when  
14 there are no caribou in your area, I mean it is not  
15 hard to figure that out.

16 Q. Does the district manager - I am sure  
17 it is not - does the district manager have to report to  
18 the regional director?

19 A. No, no. We trust him to make that  
20 decision.

21 Q. That is made locally and that is the  
22 end of it?

23 A. Yes.

24 MRS. KOVEN: Excuse me, Dr. Euler. Is it  
25 as obvious to figure out if there is moose in an area?

1 DR. EULER: Well, over much of the area  
2 of the undertaking, yes. There are a few areas where  
3 it's a little harder where the moose range and the deer  
4 range overlap, but even there it is not particularly  
5 hard. I mean, our people who are in the field know  
6 that quite, quite well.

7 THE CHAIRMAN: Dr. Euler, would this also  
8 apply to the fisheries guidelines?

9 DR. ALLIN: You are referring I gather to  
10 knowledge of the existence of specific fish species in  
11 an area?

12 THE CHAIRMAN: That's right. And if you  
13 knew that there weren't specific fish species in a  
14 particular lake and there was a guideline covering that  
15 specie would you, in similar fashion, just ignore that  
16 guideline or would you, nevertheless, have to provide  
17 for the appropriate habitat, buffer areas, spawning  
18 areas, et cetera, notwithstanding that you knew that  
19 that lake didn't contain those species?

20 DR. ALLIN: Yes. The Fish Habitat  
21 Guidelines are based partly on the nature of the fish  
22 community that is present. They address lake trout  
23 communities, they address -- concern other specific  
24 fish species in terms of their importance in that  
25 community, but they would also address in a little more

1 general fashion the protective measures that may be  
2 needed on, say, warm water lakes where there may be  
3 considerable variation in the warm water fish species  
4 that are actually present.

5 But regardless of what species are in  
6 fact present, the guidelines do provide protection for  
7 their habitat.

8 THE CHAIRMAN: So they are treated  
9 somewhat in a different fashion than what Dr. Euler has  
10 just indicated with respect to the Moose Habitat  
11 Guidelines?

12 DR. ALLIN: Yes, that is true.

13 MR. MARTEL: Your surveys --

14 MR. TUER: I'll be getting into them.

15 MR. MARTEL: One of the problems yet is  
16 you don't know what's in many of the lakes; is that not  
17 right?

18 We know whether there are cold water  
19 lakes or hot water lakes or warm water, but in fact you  
20 haven't got to do all the surveys because of the  
21 quantity of lakes in the province?

22 DR. ALLIN: That's right.

23 MR. MARTEL: That's in the area of the  
24 undertaking.

25 DR. ALLIN: That's right. There are over



1 250,000 lakes in the area of the undertaking and we  
2 have surveyed a number of them, but by no means all.

3 MR. MARTEL: So you apply a kind of rule  
4 of thumb, I guess, because lots of places you wouldn't  
5 know whether the type of fish there or whether there  
6 was a let's say a specific spawning area?

7 DR. ALLIN: Yes. There is an approach  
8 that's identified in the fisheries policy that directs  
9 the use of the fish guidelines which indicates how to  
10 proceed, how to provide sufficient protection where you  
11 don't know all of the information that you need to know  
12 to use the guidelines.

13 MR. MARTEL: But the cold one is much  
14 more simple?

15 DR. ALLIN: That's right.

16 MR. MARTEL: Because you don't know what  
17 is there and you would apply a buffer?

18 DR. ALLIN: That's correct.

19 MR. MARTEL: Where it's warm water it's  
20 somewhat more difficult, I guess?

21 DR. ALLIN: That's right. It's not more  
22 difficult. If it is a warm water situation, the  
23 guidelines provide for more options if in fact you do  
24 know where certain critical habitat is located.

25 If you don't know, then the same rules



1 apply, you end up with a essentially a reserve.

2 MR. TUER: Q. Dr. Euler, you spoke last  
3 week of adaptive management.

4 DR. EULER: A. Yes.

5 Q. I have written down a few of the  
6 statements. One learns from one's mistakes?

7 A. Yes.

8 Q. Hopefully.

9 A. Hopefully.

10 Q. Whereas one may achieve the right  
11 result and perhaps doing it the wrong way and be unaware  
12 of the error?

13 A. Yes, that can happen.

14 Q. If you blow it, it is obvious?

15 A. Yes.

16 Q. And you should learn from that?

17 A. That's right.

18 Q. Wrong is right, I have written down  
19 as somebody said.

20 A. I don't remember just who that was,  
21 but it was said.

22 Q. Do you agree with it?

23 A. Well, in the sense that it was said,  
24 yes. In the sense...

25 THE CHAIRMAN: I said it, I think, Dr.

1 Euler.

2 DR. EULER: And I think you said it with  
3 a twinkle in your eye.

4 The point is that when you make errors  
5 you should learn from them and I think the point I was  
6 trying to make was, making errors is a normal part of  
7 being a person and particularly being a resource  
8 manager, and it is very, very probable that we are  
9 going to make some errors in our judgments and we can't  
10 help it.

11 Q. All right. There are two aspects to  
12 it. First of all, you are a scientist and scientists  
13 aren't in the habit of proceeding hit and miss. One  
14 might say ready, fire aim, that's contrary to the  
15 philosophy of a scientist; is it not?

16 A. Well, I wouldn't put it quite that  
17 way, but I guess it is not too inaccurate.

18 Q. Sure. Well, the problem with that  
19 approach is that when you are wrong somebody gets hurt  
20 or something gets hurt and that can be avoided by doing  
21 the appropriate preparatory work or research that  
22 should be done; should it not?

23 A. Yes, of course.

24 Q. I think Dean Baskerville in his  
25 Integrated Management for Habitat and Timber Brief,

1 Exhibit 405, said it this way - I just want to see if  
2 you agree with this. At page 2, in the last paragraph  
3 Management Basics:

4 "The key to management and, therefore, to  
5 integrated management is to set goals  
6 that are realistically attainable using  
7 available tools."

8 Do you agree with that?

9 A. Yes.

10 Q. "The goals must be measurable so that  
11 it is possible to assess progress  
12 toward them."

13 A. Yes.

14 Q. That's pretty obvious?

15 A. Yes, clearly.

16 Q. "The goals must encompass control  
17 across the full extent of the forest for  
18 the full time horizon of the management  
19 unit and that is a tall order in any  
20 resource."

21 And you have already said that?

22 A. Yes, indeed.

23 Q. "There must be the necessary  
24 technological bases to design the  
25 management regime."

1 Do you agree with that?

2 A. Yes.

3 Q. All right. What I am getting at, Dr.

4 Euler, is that it is not very appropriate for

5 scientists to be experimenting when it is more

6 appropriate for them to be relying on scientific data?

7 Do you understand what I am saying?

8 A. Yes.

9 Q. Do you agree with that?

10 A. Yes.

11 Q. So if you learn from your mistake,

12 you do something about the appropriate scientific

13 background study. Somebody or something gets hurt when

14 you make a mistake; right?

15 A. When you make a mistake somebody can

16 be hurt, that's right.

17 Q. Now, secondly - and this came up in

18 your evidence - don't you have to know that there is a

19 problem before you impose a constraint?

20 A. Yes.

21 Q. I understood you to say with respect

22 to text was with respect to the bald eagle, that it was

23 not known to be in trouble, but that --

24 A. In northwestern Ontario.

25 Q. All right. Not known to be in

1 trouble.

2 A. In northwestern Ontario.

3 Q. Yes.

4 A. Province-wide it is a different  
5 matter.

6 Q. In northwestern Ontario, but you were  
7 going to impose constraints anyway?

8 A. Well, it's on the endangered species  
9 list, that's certain.

10 Q. All right. All right. I am just --  
11 I am only using that as an example.

12 A. Yes.

13 Q. As to an approach to be used by a  
14 scientist. Don't you have to know whether there is a  
15 problem before you impose a remedy?

16 A. Well, I think we do know there is a  
17 problem. You see, it very much becomes what is a  
18 problem.

19 Now, it is true that in northwestern  
20 Ontario the bald eagle population is doing well. Don't  
21 forget that in the province as a whole they have been  
22 endangered and by applying some restrictions to the  
23 timber cutting operation, we can ensure that we don't  
24 have a problem with bald eagles and that is our goal  
25 here.



1                   The population is healthy and we do not  
2           want it to change from being healthy and we know with  
3           certainty that habitat is important for those  
4           creatures. There is just no question about it.

5                   Now, we've gone to the scientific  
6           literature, we've had the best experts that we could  
7           find and they have said to us: Here are some  
8           guidelines that you could use in maintaining the  
9           habitat for bald eagles. We have done that and we  
10          think as a result of that we have contributed to the  
11          stability of that population.

12                   Now, we don't want to wait until there is  
13          a problem before we begin to apply solutions,  
14          particularly in the case of the bald eagle which is an  
15          endangered species and has been going downhill in the  
16          province as a whole for some years.

17                   Q. Well, okay. The bald eagle is one  
18          thing. You say you don't want to wait until there is a  
19          problem before you find a solution.

20                   A. Well, in this case that you are  
21          talking about, certainly.

22                   Q. Well, leave the bald eagle aside?

23                   A. All right, good. I would be happy to  
24          leave the bald eagle aside for the moment.

25                   Q. Are there any other instances where

1       you are imposing constraints where you do not know  
2       there to be any problem?

3                   A.   Well, I can't think of one.   I really  
4       can't think of one.

5                   Q.   All right.

6                   A.   To the best of my knowledge all the  
7       constraints that we are applying involve some kind of a  
8       problem at some level.

9                   THE CHAIRMAN:   Well surely, Mr. Tuer,  
10       going back to Dr. Allin's earlier testimony a few  
11       minutes ago, you are applying certain constraints to  
12       various lakes in terms of the fisheries yet you really  
13       don't know whether there is any kind of problem  
14       whatsoever, but the reason you are doing it is because  
15       you haven't even surveyed the lakes and you don't know  
16       know what's there.

17                   MR. TUER:   I am coming to Dr. Allin.

18                   THE CHAIRMAN:   Would that not be the  
19       case, Dr. Allin, that you are taking preventative  
20       measures when you may not even have to had you had the  
21       necessary data to actually determine whether or not  
22       there is a problem in the first place?

23                   DR. ALLIN:   Well, certainly information  
24       on the nature of the fish species and the nature of the  
25       habitats they require is useful and is important in

1 using the fish guidelines.

2 But the fact that we apply a conservative  
3 approach to using the guidelines where we would  
4 maintain a reserve with some modified operations in  
5 some cases where we don't know what's there is simply a  
6 reflection of our conservative approach, that we think  
7 is prudent to apply that kind of protection because we  
8 don't know what is at risk.

9 MR. TUER: I will be getting to that, Mr.  
10 Chairman, in due course.

11 Q. But, Dr. Allin, the fact of the  
12 matter is, is if you do your surveys and you find that  
13 there is no problem then you don't impose constraints;  
14 is that not so?

15 DR. ALLIN: A. I am sorry, would you --

16 Q. I say if you your surveys and you  
17 find that there is no difficulty, you don't impose  
18 constraints. For example, you find a lake is sterile,  
19 you are not going to impose constraints around it; are  
20 you, not as a protection of the fishery and we'll get  
21 to --

22 A. That's correct.

23 Q. All right.

24 MR. MARTEL: But we didn't we move away  
25 from the overall constraint that was the buffer around

1 every lake - I think it was moved a number of years  
2 ago - in order to facilitate forest industry? I might  
3 be wrong, but is that not correct?

4 It was uniform at one time, was it not,  
5 around every lake. And did we not move away from that  
6 several years ago to try to make more timber available?  
7 Was that not the reason for that?

8 DR. ALLIN: Well, it was part of the  
9 rationale for doing it. The real rationale for  
10 developing new guidelines was to in fact identify the  
11 real requirements to protect fish habitat.

12 MR. MARTEL: But if you had simply  
13 maintained the status quo five, six, seven years ago,  
14 you would have continued to have a buffer around all  
15 lakes, you wouldn't have had to worry about your  
16 guidelines, except that you might make it a little more  
17 aesthetic on the side of a hill.

18 But if you had retained the 400-foot  
19 buffer on all lakes that was there years ago - and not  
20 that many years ago - you wouldn't have had to have  
21 guidelines nearly as stringent as you might have today  
22 in terms of trying to identify all the parameters that  
23 are there now?

24 DR. ALLIN: Well, it's true we would not  
25 have to consider as many factors as we do now, that's



1 true. And if we did have 120-metre reserves, let's say  
2 on all lakes, it would not be a concern.

3 MR. MARTEL: That's what I mean. I mean,  
4 with one big sweep of the broad brush you would have  
5 eliminated many of the problems faced by biologists  
6 today, or the problems they're wrestling with today?

7 DR. ALLIN: It would make our life  
8 simpler.

9 MR. MARTEL: Yes.

10 MR. TUER: Q. Well, back to you, Dr.  
11 Euler. I put this simple proposition to you: If you  
12 have a healthy, viable specie there is no reason to  
13 impose constraints to protect that specie?

14 DR. EULER: A. I do not agree with that.  
15 There may be reasons to impose constraints to ensure  
16 that the population remains viable. It depends  
17 entirely on the circumstances that you are involved in.

18 Q. Would you impose a constraint when  
19 you didn't know the effect of that constraint?

20 A. No, we would try not to do that, no.

21 Q. That would be one of your learning  
22 from your errors; would it?

23 A. No, I don't think that's a good way  
24 to put it. Sometimes, as managers, we have to make  
25 decisions in the absence of hard and fast data. There



1 is no choice, because many of the issues we have to  
2 deal with, the complete understanding of problem is not  
3 there, so as managers we have to make a decision.

4 Now, as a scientist -- being a scientist  
5 is really an inductive method or a deductive method of  
6 thinking and trying to discover a solution to a  
7 problem. That's a little bit different than being a  
8 manager, because when you go out and make management  
9 decisions, you often have to leave your scientific hat  
10 back in the office and use the data that you have to  
11 make the best decision that you can.

12 And we very often are managers and we are  
13 very often scientists and we're not always the same and  
14 we can't always be scientists because we just don't  
15 have the ability to be scientists in every case.

16 Q. I'm sorry, I don't know what the  
17 point is you are getting to, but...

18 A. The point is, we impose constraints  
19 under the best knowledge that we have and I'm trying to  
20 be as honest as I can and say that sometimes we are  
21 wrong, which I think is a reasonable way and, yes,  
22 people do get hurt occasionally. We try our best to  
23 minimize that and we try our best to learn from those  
24 mistakes.

25 Q. But my point, Dr. Euler, is: Surely

1       you have got to have some justification, scientific or  
2       managerial, for imposing a constraint.

3                   A.   And we do.

4                   Q.   That's what I wanted to find out.

5                   A.   Good.

6                   Q.   And what is the justification in any  
7       particular -- can you give me some examples.

8                   A.   Well, you pick an example and I'll  
9       give you the justification, or we can go back to bald  
10      eagles if you wish.

11                  Q.   What about the pileated woodpecker?

12                  A.   Okay.

13                  Q.   Healthy, viable?

14                  A.   The population at the moment at the  
15      provincial level appears to be healthy and viable, yes.

16                  Q.   And would you impose a constraint  
17      with respect to the pileated woodpecker?

18                  A.   Well, I might in certain local  
19      circumstances depending on what the circumstances were.

20                  Q.   In a local situation?

21                  A.   Yes.

22                  Q.   All right.

23                  A.   I wouldn't apply it provincially.

24                  Q.   All right.

25                  A.   But there might be an issue somewhere

1 where that was a concern.

2 Q. You made reference to the  
3 red-shouldered hawk?

4 A. Yes.

5 Q. Which is in declining population in  
6 Ontario?

7 A. That's right.

8 Q. That is a bird which is found almost  
9 exclusively in southern Ontario?

10 A. Well, south of the French and Mattawa  
11 River, yes.

12 Q. Yes.

13 A. Is that south, okay.

14 Q. And do you impose constraints for the  
15 protection of that bird?

16 A. Yes.

17 Q. What are they?

18 A. Well, it is usually a buffer zone  
19 around the nest or perhaps, in certain circumstances,  
20 an area of forest that is not cut.

21 Q. Does that bird return to its nest?

22 A. Sometimes.

23 Q. What happens if there is a fire and  
24 the hawk or an eagle's nest is destroyed, what does the  
25 bird do?

1                   A. Well, it has to find another nesting  
2 sight.

3                   Q. Yes.

4                   A. Yes.

5                   Q. Does it affect its population?

6                   A. It could. We don't -- I can't say it  
7 always does or it always doesn't. It is so  
8 circumstantial dependent. It depends on many factors;  
9 the size of the fire, the state of the population.

10                  Q. See, the reason I am asking you that  
11 is because I think you said that the hawk -- is it a  
12 snag dweller? The eagle is.

13                  A. The eagle needs snags, yes, as one  
14 part of its habitat requirements. Now, the hawk  
15 usually nests in a tree that's living, so it doesn't  
16 really require snags, the red-shouldered hawk.

17                  Q. Okay. Are there any constraints on  
18 harvesting in the area of the undertaking because of  
19 the red shouldered hawk?

20                  A. Yes.

21                  Q. Where is that?

22                  A. Well, they would occur -- sorry?

23                  Q. Is that on a local basis?

24                  A. Yeah, it's a local basis at the  
25 moment, yes, Because the red-shouldered hawk is not a

1 provincially featured species and so constraints are  
2 applied locally as necessary.

3 Q. According to Dr. Eagles, in Exhibit  
4 477 - I'm only giving this to you as an example - he  
5 writes:

6 "The species occurs only in North America  
7 reaching the northerly edge of its  
8 breeding range in southern Ontario."

9 So the area of the undertaking that you  
10 are speaking of where there would be constraints would  
11 be in the Great Lakes/St. Lawrence region?

12 A. Yes, that's correct.

13 Q. Or the northern region?

14 A. Page 121 of that exhibit has an  
15 indication of its range.

16 Q. Yes, its range appears there to be in  
17 central and southern Ontario and by and large excluding  
18 the Algonquin region; does it not?

19 A. Well, it occurs throughout the  
20 Algonquin region from time to time.

21 Q. Algonquin Park?

22 A. It would be in the park, yes.

23 Q. But not in northern Ontario?

24 A. That's correct.

25 Q. So, if that were to become a



1 provincially featured specie, it simply wouldn't be  
2 applied, is that what you are telling me?

3 A. In the boreal forest range.

4 Q. In the boreal forest range.

5 A. That's right. It would be applied in  
6 the Great Lakes/St. Lawrence range.

7 Q. Now, you mentioned the possibility of  
8 extending the number of featured species --  
9 provincially featured species last week to cover more  
10 than the moose and the deer.

11 What were those species?

12 A. That I mentioned last week?

13 Q. Yes.

14 A. My memory is pretty bad. I think it  
15 was great gray owl, hawk owl and the red-shouldered  
16 hawk, but I am not...

17 MR. MARTEL: Caribou.

18 DR. EULER: Pardon?

19 MR. MARTEL: Caribou as well.

20 DR. EULER: Did I mention caribou?.

21 DR. EULER: I mentioned three for four.

22 MR. MARTEL: And a mouse.

23 DR. EULER: Did I mention a mouse too?

24 Okay. I can't remember exactly. That was in response  
25 to a question from the Chairman about other options

1       that one could have.

2                   MR. TUER:  Q.  That's what they are at  
3       the present time is options; is it?

4                   DR. EULER:  A.  That's right.

5                   Q.  And have those options been studied  
6       in any depth?

7                   A.  No, not at all.

8                   Q.  They haven't been considered?

9                   A.  No, not by the Ministry.  The  
10      Chairman, I believe, asked me my opinion and that was  
11      what it was.

12                  Q.  I see.  So there is no basis at the  
13      present time -- no scientific basis for making those  
14      provincially --

15                  A.  No, you see, that's a different  
16      question now.  When you say no scientific basis, we are  
17      in another realm completely.

18                  Q.  Well, I thought you said that there  
19      had been no studies done on them?

20                  A.  No, I didn't say there were no  
21      studies done, there is all kinds of studies done.

22                  It is very important that you understand  
23      the difference between doing science and doing  
24      management.  When you do management, you use the  
25      science but it may not be science in the sense of

1       discovering knew knowledge. You are using the  
2       knowledge to make decisions.

3                   Q. I don't want to get into a battle of  
4       semantics with you again. The fact is that there has  
5       been no - from what you said, as I understand you -  
6       there has been no study done as to the appropriateness  
7       of making any of these species provincially featured  
8       species?

9                   A. Yes, and that's correct.

10                  Q. All right. Let's leave it at that.

11                  MR. MARTEL: Weren't you looking at them  
12       though as maybe the five species that could lead to the  
13       protection - if they were featured species - of the  
14       remaining 30 per cent of the population that you were  
15       concerned about?

16                  DR. EULER: That's right, that's right.  
17       And I think Mr. Jeffery said: Could we select four or  
18       five others and then would it account for the habitat  
19       needs of the other 30 per cent.

20                  And I just said yes and named him some  
21       things right off the top of my head that I think would  
22       be very useful if we chose to go in that direction, but  
23       that doesn't mean that the Ministry is doing that or  
24       that the Ministry is even studying that at the moment.

25                  MR. TUER: Q. Or does it even mean that

1 it's appropriate to do so?

2 A. Well, again, that's a different  
3 question.

4 Q. Yes, I understand it's a different  
5 question.

6 A. And I think it would be appropriate  
7 to consider that issue very carefully.

8 Q. But there is more to it than just  
9 those species; is there not? Is there not the effect  
10 on all other users of the forest?

11 A. Absolutely, and that would be part of  
12 your study. You would say: What would be the impact  
13 on the forest industry if we took the following  
14 management action. That would be an extremely  
15 important question.

16 Q. Yes. And that has not been done?

17 A. No.

18 Q. Now, you spoke last week of the  
19 impact of timbering operations on songbirds. Is that a  
20 matter of concern to the Ministry?

21 A. Yes.

22 Q. I don't mean that in any pejorative  
23 way, but is it something that the Ministry feels it has  
24 well in hand?

25 A. At the moment the ministry doesn't

1 believe there is a problem in that area.

2 Q. And that is something that is studied  
3 not by individual species but as a group because of the  
4 magnitude of the -- I suppose, virtually the  
5 impossibility of the ability to study it otherwise?

6 A. Yes, that's correct.

7 Q. All right. Well, Dr. Euler, you  
8 showed us some slides last week, Exhibit 483, 484 and  
9 485 and the note I made was there were clearcuts, one  
10 was not so good, one was pretty good and one was great  
11 I think was the way they were identified. Do you have  
12 those slides?

13 A. Yes, they are in my --

14 MR. TUER: Perhaps we could set those up  
15 after lunch, if this would be a convenient time to --

16 THE CHAIRMAN: All right. Why don't we  
17 break at this time, Mr. Tuer, until one thirty.

18 MR. TUER: Thank you.

19 THE CHAIRMAN: Thank you.

20 ---Luncheon recess taken at 12:15 p.m.

21 ---Upon resuming at 1:40 p.m.

22 THE CHAIRMAN: Thank you. Be seated,  
23 please.

24 MR. FREIDIN: Mr. Chairman, as a result  
25 of your direction I have for the Board and I have made



1 available too other copies a three- page document dated  
2 March 25th, 1989 entitled: Interim Direction for  
3 Application of Timber Management Guidelines for the  
4 Provision of Moose Habitat.

5 THE CHAIRMAN: Okay. We will file that  
6 as Exhibit 489.

7 ---EXHIBIT NO. 489: Two-page document entitled:  
8 Interim Direction for Application  
9 of Timber Management Guidelines  
for the Provision of Moose  
Habitat.

10 THE CHAIRMAN: Mr. Tuer?

11 MR. TUER: Thank you, Mr. Chairman.

12 Q. Dr. Euler, can we deal with these  
13 slides, the not so good and so forth?

14 DR. EULER: A. Yes.

15 MR. TUER: Maybe somebody could turn off  
16 the lights.

17 DR. EULER: We need the lights off and  
18 then the projector should be turned on, please.

19 MR. MARTEL: What were the number of  
20 those slides, Mr. Tuer?

21 MR. TUER: There are four of them in  
22 fact. They are Exhibits 483, 484 and 485 and  
23 photograph No. 30 from Dr. Euler's evidence package.

24 Q. Now, this first slide, Dr. Euler, is  
25 one that shows a site that you are not too happy with.

1 On the left there appears to be a fairly straight  
2 boundary.

3 THE CHAIRMAN: Perhaps it would be -- is  
4 it possible to shut these other lights out? I think it  
5 would be easier for people at the back to see.

6 MR. TUER: Q. There appears to be a  
7 straight line of demarcation between the cut area and  
8 the uncut area; is that so?

9 DR. EULER: A. Yes.

10 Q. Do you know why that was? Is that a  
11 boundary line of an FMA or some such thing?

12 A. Yes, it is.

13 Q. So that would -- has the area on the  
14 other side of that boundary line been cut? There  
15 appear to be some cuts or is that --.

16 A. Yes, there are some cuts in it.

17 Q. And do they belong to different --  
18 are they managed by different operators?

19 A. Yes, they are.

20 Q. And what are the other things that  
21 are not quite the way you would like them to be?

22 A. Well, the basic point here is that  
23 the two different operating styles or procedures are  
24 not based in a biological justification; that is, you  
25 just wouldn't see on the basis of any biological

1 justification a straight line running through the bush.

2 The principles that have been employed  
3 have been employed on other than biological principles  
4 here, and that's not a good basis to make the decisions  
5 about the biology of the forest.

6 Q. So that's on a biological basis  
7 rather than an aesthetic basis?

8 A. Yes. I am talking about -- yes.  
9 See, my expertise is wildlife and so when I speak, I  
10 speak to that general topic.

11 Q. Very well. And how can this  
12 difficulty be resolved, does it require an overall view  
13 by the Ministry people who are dealing with these FMAs?

14 A. Yes, it requires an overall view by  
15 both the Ministry people and those who harvest the  
16 forest. We need to get people thinking  
17 comprehensively.

18 Q. Surely the ultimate responsibility is  
19 that of the Ministry itself because the operator on the  
20 right-hand side may have no idea what the operator on  
21 the left-hand side is doing?

22 A. Exactly, right, and this is an  
23 example -- the term I used was not so good.

24 Q. Not so good because there wasn't a  
25 sufficient overall perspective?

1 A. That's right, yes.

2 Q. All right. Now, what are the other  
3 matters of concern to you in that photograph?

4 A. Well, you see, that's the big one.  
5 What has resulted then is on the right-hand side  
6 generally -- what will result is a generally less  
7 diverse forest and landscape than what would have been  
8 there with a little more comprehensive understanding of  
9 the principles of taking timber.

10 Q. All right. There appear to be some  
11 areas of green -- first of all, some mature areas of  
12 green toward the centre; do you see that?

13 A. Say, right in here.

14 Q. And further down.

15 A. And in here.

16 Q. And further down.

17 A. Yes.

18 Q. Yes, those areas. Those are left  
19 areas; are they?

20 A. A combination of left areas and areas  
21 that are regenerating.

22 Q. Yes. So the regeneration is already  
23 taking place?

24 A. Over some of the area, yes.

25 Q. That light green area is regen; is

1 it?

2 A. Well, it would be vegetation regen.

3 I am not sure that there are actual trees in there, but  
4 certainly vegetation is coming back.

5 Q. Have you walked that area?

6 A. No, I have not.

7 Q. Is that your photograph?

8 A. It's -- no.

9 Q. Did you fly it yourself?

10 A. No.

11 Q. So you're just looking at a  
12 photograph and making your observations from the  
13 photograph?

14 A. And discussing with the person who  
15 took it, yes.

16 Q. Yes. And did that person walk over  
17 the area?

18 A. No.

19 Q. What I am trying to get at as shortly  
20 as possible is: Can you tell me the extent, for  
21 example, of artificial regen that took place in that  
22 area?

23 A. No, I can't.

24 Q. Or when it was cut?

25 A. I don't have that information with me



1 at the moment.

2 Q. I see. So in reality that area may  
3 regenerate into a very handsome, healthy forest?

4 A. Well, that depends on your  
5 perspective. It certainly will regenerate with  
6 vegetation, there is no question about that.

7 Q. But how it regenerates or to what  
8 species depends upon what the regeneration program was?

9 A. That's right. Yes, exactly.

10 Q. And we don't know that?

11 A. At this point we don't know that, no.  
12 We are just looking at a harvest, and regeneration I  
13 believe will be dealt with in the next panel.

14 Q. I understand that, Dr. Euler. So you  
15 would have that line of demarcation between the two  
16 management units other than the straight line?

17 A. Yes, because that would reflect the  
18 biological reality.

19 Q. That forests don't burn or don't fall  
20 down in a straight line?

21 A. That's right.

22 THE CHAIRMAN: Dr. Euler, if I could just  
23 ask a quick question. The area to the left obviously  
24 is at a more advanced state of regeneration meaning  
25 that the cut took place earlier on?

1 DR. EULER: Yes, that's right.

2 THE CHAIRMAN: This photograph would look  
3 quite different, would it not, a few years down the  
4 road when most the barren areas were at least covered  
5 with some kind of regeneration--

6 DR. EULER: Vegetation, yes.

7 THE CHAIRMAN: --or vegetation?

8 DR. EULER: That's right. It would look  
9 quite different, right. Now, the value to -- sorry.

10 THE CHAIRMAN: You are not really  
11 comparing apples with apples here, at least in terms of  
12 the succession of what's happening on both sides of the  
13 line?

14 DR. EULER: Yeah, that's right. I wasn't  
15 trying to talk about the successional processes  
16 following the cut, no, I was just trying to talk about  
17 the harvest and showing an example of something that is  
18 not so good.

19 MR. TUER: Q. So far as habitat is  
20 concerned, is there anything particular in that that  
21 troubles you?

22 DR. EULER: A. Habitat for wildlife?

23 Q. Yes.

24 A. Yeah. Well, the troublesome thing  
25 is, you see, this is all -- whatever happens, either

1 natural regen or artificial regen or whatever this,  
2 whole area is going to come back in a fairly -- or less  
3 diverse than it should in terms of the biological  
4 reality of this particular site.

5 Q. Wait a minute. How can you say that,  
6 sir, when you don't know what was there in the first  
7 place?

8 A. Well, because I know just from  
9 looking at the photo and talking to the person who took  
10 it that in general terms this kind of applying the same  
11 prescription over such a large area in that particular  
12 site is not the best prescription from a biological  
13 standpoint.

14 Q. No, but let's stick to your  
15 observation. And I guess really we don't know what was  
16 there before so we don't know whether or not there is  
17 going to be a less diverse specie mix?

18 A. Well, we don't know what was there  
19 before, that's true, but just looking at the photo you  
20 can tell that whatever comes back is going to be less  
21 diverse than would be desirable from a wildlife point  
22 of view.

23 Q. But perhaps no worse, no better than  
24 what was there before?

25 A. Well, we can't compare that, that's

1 true.

2 Q. All right.

3 A. And that wasn't the purpose.

4 Q. All right. Thank you. Can we go to  
5 the next photograph, please.

6 MR. MARTEL: Could I ask one question on  
7 that? Is that -- you've got two forest management  
8 units, was that boundary the same for the wildlife  
9 management unit as what it is for the forest management  
10 unit?

11 DR. EULER: No, it wasn't the same  
12 boundary, no. This is the kind of thing that causes  
13 the Ministry concern when we get into this whole  
14 business of applying the guidelines because, on the  
15 face of it, you see, it's hard to justify from a  
16 biological point of view such different prescriptions  
17 on one side of the straight line and it reflects  
18 perhaps some lack of common understanding of applying  
19 those guidelines.

20 Now, evaluating the impact of this on  
21 wildlife requires that you know more than is just here.  
22 It just isn't sufficient to say this is good or bad or  
23 whatever for wildlife, because you need more  
24 information.

25 My purpose in showing it is because this



1 is a panel on harvest and I wanted to show something to  
2 point -- put all the cards on the table and say: Yes,  
3 there are a few, in some occasions across the province,  
4 when a less than desirable harvest pattern occurs. And  
5 this is an example, in my view.

6 Well, to do appropriate evaluation of  
7 this and its impact on wildlife we need much more  
8 information.

9 Q. Now, apart from the configuration on  
10 the left, all we are left with now is that this might  
11 have been a good harvest operation and it might not  
12 have been a good harvest operation and we don't know?

13 A. Well, I wouldn't agree with that.  
14 From the point of view of the forest company. It may  
15 have been a good harvest operation, but in my view--

16 Q. I'm not talking about --

17 A. --from the point a wildlife manager,  
18 it is not a good harvest operation.

19 Q. Well, you say that, if I understand  
20 your earlier answer, because you hope that something  
21 better than you expect to come from that area is going  
22 to come -- is going to grow?

23 What do you expect from it, do you expect  
24 better than was there before?

25 A. I have no -- I don't know. I mean,



1       that wasn't the purpose was not to show what was going  
2       to happen, it was just to smhow an example of a not so  
3       good harvest operation.

4                   Q.   Well, again I don't want to belabour  
5       this too long, but so far I hear you say it is a not so  
6       good harvest operation because it runs right down the  
7       boundary line of the FMA on the left-hand side?

8                   A.   Well, it doesn't reflect the  
9       biological reality that is there.

10                  Q.   That's because it runs down the  
11       boundary line?

12                  A.   Yes, yes.

13                  Q.   But other than that, where is it  
14       deficient?

15                  A.   Well, the large area that is cut  
16       hasn't been -- or the whole concept of diversity of  
17       vegetation remaining is that it isn't very diverse and  
18       one of the things we like to see in a good harvest  
19       operation is a diversity of age-classes and vegetation  
20       and shapes and so on.

21                  Q.   But, Dr. Euler, it may have been all  
22       the same age-class when it was cut; is that not so? We  
23       don't know.

24                  A.   Well, we didn't look at -- the  
25       purpose here was not to demonstrate its value to

1 wildlife, it is just to show a harvest operation that  
2 is not so good. Now --

3 THE CHAIRMAN: Well, Dr. Euler, perhaps  
4 we can shorten this a bit if you could answer the  
5 direct question that Mr. Tuer is posing to you and,  
6 that is, essentially that we don't know what was  
7 there--

8 DR. EULER: Yes, that's correct.

9 THE CHAIRMAN: --prior to it being cut  
10 and, therefore, you can't tell really from just this  
11 information whether or not what will come back will  
12 materially differ from what was there?

13 DR. EULER: That's correct. That's  
14 correct.

15 MR. TUER: Thank you, Mr. Chairman. That  
16 is what I was trying to get Dr. Euler to agree with.

17 Q. Could we go to the next one, please.  
18 This is exhibit -- how do you describe this one?

19 A. Well, it is like the first slide in  
20 that it --

21 Q. Excuse me. What title did you give  
22 it?

23 A. Oh, I don't remember.

24 MR. TUER: Have you got that, Brian?

25 Q. This is entitled: Extensive cut.

1 Now, what's your purpose in showing this slide, Dr.  
2 Euler?

3 DR. EULER: A. Well, again, it was just  
4 to demonstrate an example of a harvest operation that I  
5 would judge not so good for wildlife. The same purpose  
6 as the second slide.

7 Now, simply looking at this slide does  
8 not allow us to evaluate the impact on wildlife in the  
9 general area, we need much more information. This is  
10 simply an example -- one of the examples that has  
11 caused us some problems in applying the guidelines.

12 Q. All right. Now, can we -- is it also  
13 the case with this slide that you don't really know  
14 anything about the history of this area?

15 A. No, I wouldn't say that.

16 Q. Well, I don't mean it in the sense  
17 that I suspect you're implying it. Do you know  
18 anything about this clearcut?

19 A. This was a diverse boreal mixed wood  
20 forest and clearcuts of this size are not appropriate  
21 under these circumstances. See, they may be well --  
22 very appropriate under a jack pine sand flat, but they  
23 are not very appropriate under this kind of boreal  
24 mixed wood condition.

25 Q. Do you know what cover was there

1 before?

2 A. Well, when we call boreal mixed wood  
3 we mean this forest composed of both deciduous,  
4 coniferous trees like spruce, fir, birch, aspen and  
5 that kind.

6 Q. Yes, but do you know that yourself?

7 A. I did not physically take this  
8 picture, I spoke to the person who did and he told me  
9 that's what was there before.

10 Q. All right. Accepting that, what is  
11 wrong with it?

12 A. Well, because before this was cut it  
13 was a very diverse forest area, the same prescription  
14 has been applied over a very large area and, in my  
15 view, larger than would be appropriate for a harvest  
16 operation that was intended to be -- not be detrimental  
17 to wildlife.

18 Q. Is it your concern that the same  
19 diversity of specie is not going to regen?

20 A. No, I am not speaking to regen here,  
21 I am talking about harvest operation.

22 For example, I would like to see some  
23 mature conifer left in the middle to serve as cover for  
24 moose and as habitat for small birds. It is a long  
25 distance to any mature cover.

1 I would like to see some more cover in  
2 this case left around the water areas from the point of  
3 view of animals that use aquatic habitat.

4 Q. Do you know the number of hectares  
5 approximately of that is--

6 A. No, I did not measure that.

7 Q. --depicted in the photo?

8 A. No.

9 Q. Do you know at what stage of  
10 regeneration that photo is?

11 A. No. The purpose was not to discuss  
12 regeneration, it was to show a harvest operation  
13 shortly after harvest.

14 Q. Look, let me say one thing to you,  
15 Dr. Euler. We would get along a lot faster if you  
16 would just answer the question.

17 It is a simple question and you can  
18 answer it yes or no. Okay.

19 A. Yes.

20 Q. Thank you. Now, are there hardwoods  
21 in that area; do you know?

22 A. No.

23 Q. You don't know?

24 A. No.

25 Q. So you don't know whether hardwoods



1 are going to regenerate?

2 A. No.

3 MS. SWENARCHUK: Mr. Chairman, perhaps  
4 you could clarify something for me. I would not  
5 consider that any witness coming before a Board would  
6 be limited to answering yes or no to a question asked  
7 if the witness has further information

8 MR. TUER: Well, I didn't suggest, Mr.  
9 Chairman, that the witness answer yes or no; I  
10 suggested when he was answering a question which could  
11 be answered yes or no he might do that, rather than  
12 give a speech about something else.

13 THE CHAIRMAN: Okay. Let's try and get  
14 back on track.

15 I think -- Dr. Euler, I think it is  
16 advisable to listen carefully to the questions and, of  
17 course, you are not restricted to answering yes or no  
18 to the questions, we want the benefit of your expertise  
19 and your answers in full.

20 It is not particularly helpful, however,  
21 if in answering a question the answer responds to  
22 something different from what was asked, because then  
23 the question has to be repeated again or put in another  
24 way and that is the part of the process that prolongs  
25 it.

1                   By the same token, there are certain  
2           answers that can be answered quickly and efficiently in  
3           terms of a yes/no answer.

4                   If Mr. Tuer isn't satisfied with your  
5           answer he can, of course, go on to request an  
6           elaboration.

7                   DR. EULER:   Okay.   I will try, Mr.  
8           Chairman.

9                   THE CHAIRMAN:  Thank you.

10                  MR. TUER:   Q.   Now, you said, Dr. Euler,  
11           you don't know at what stage of regeneration this site  
12           as depicted; is that so?

13                  DR. EULER:   A.   Yes.

14                  Q.   Are you able to say what type of  
15           wildlife that site supports at the present time as  
16           depicted?

17                  A.   Well, it wouldn't support very many.  
18           A few field sparrows perhaps, a few species that need  
19           the open areas created by logging.

20                  Q.   You might get a wild fire that would  
21           have that same configuration; might you not?

22                  A.   Well, it is possible, although they  
23           are usually not quite like that, but it is possible.

24                  Q.   In which case you would have exactly  
25           the same thing by nature that you had by man?

1                   A. In those cases where that occurs,  
2                   yes.

3                   Q. And in that sense then it could be  
4                   said to be one step in the successional process; could  
5                   it not?

6                   A. Yes.

7                   Q. All right. Let's go to the next  
8                   photograph -- next slide rather. Do you know what this  
9                   one is called?

10                  THE CHAIRMAN: Dr. Euler, in that last  
11                  slide, if you had a wild fire, would you have a total  
12                  clearing of the area as you would in terms of what  
13                  appeared to be a whole tree harvest method?

14                  DR. EULER: No, you don't, you very  
15                  seldom do. Wild fires burn irregularly, they go around  
16                  little wet areas, even big fires seldom clear off that  
17                  much of the landscape. They tend to be very irregular  
18                  in shape and they tend to leave behind quite a diverse  
19                  plant community.

20                  THE CHAIRMAN: If that is the case, would  
21                  the remnant animal population be different than it  
22                  would from a clearcut area?

23                  DR. EULER: Well, it probably would in  
24                  that case, that's right, because the clumps and patches  
25                  would support certain small birds and mammals that just

1 wouldn't have any habitat in this other larger  
2 clearcut.

3 THE CHAIRMAN: Thank you.

4 MR. TUER: Q. Can we go back to the last  
5 one, please.

6 A. Yes.

7 Q. Is that clearcut unlike the clearcut  
8 that's referred to in the moose guidelines?

9 A. Chapleau Crown Game Preserve?

10 Q. In Chapleau?

11 A. Yes, it is, it's quite unlike it. In  
12 Chapleau the area is very -- topologically very diverse  
13 and so what is called a clearcut, in fact, has a great  
14 many little pockets of vegetation that have been left,  
15 there is lots of other vegetation that are left in  
16 little areas.

17 Q. Looking at that slide, Dr. Euler, are  
18 you able to say where the wet areas are?

19 A. Well --

20 Q. Or if there are any wet areas?

21 A. Well, I would know some of them. Of  
22 course, the lake is a wet area.

23 Q. Well, I would agree with that.

24 A. But I can't say with certainty the  
25 other wet areas just from looking at the slide.

1 Q. I say that because it may all -- that  
2 may be an area that if it were harvested by wild fire  
3 it might not look any different than that?

4 A. It is entirely possible, that's  
5 right.

6 Q. All right. Let's go to the next  
7 slide, please. And I think you described this as a  
8 good example of harvesting.

9 A. From a wildlife standpoint, that's  
10 correct.

11 Q. And why do you say that, sir?

12 A. Well, the immediate thing that jumps  
13 to you, for example, are all these stands with their  
14 irregular shapes that have been left.

15 In the middle is a little clump of some  
16 kind of vegetation. In general, there is a lot of  
17 diversity that will be growing back here in this kind  
18 of area, with all kinds of little defilades and various  
19 patches of habitat that will be used by wildlife.

20 Q. So what you're really saying is that  
21 there aren't as many open areas, in point of size?

22 A. Well, look, what I see here is a very  
23 diverse area and over the next -- as it is now it is  
24 very diverse, with different vegetation mixed with open  
25 areas, and over the next hundreds years it will



1 continue to be diverse.

2 Q. Does that have anything to do with  
3 the topography? It seems to me I can see a lake in the  
4 middle left?

5 A. This is a lake right here, yes, sir.

6 Q. And high area above it.

7 A. Topography always contributes to the  
8 pattern of cut, that's right.

9 Q. So going back to your earlier example  
10 of jack pine sand flats, that kind of topography would  
11 be much different than this; would it not?

12 A. Yes, it would be. And under those  
13 circumstances clearcuts can be quite large and quite  
14 acceptable.

15 Q. Okay. Let's go to the final one,  
16 please. This is slide 30. Do you recall what that is?

17 A. I don't remember what the title is of  
18 that, it is from the witness statement.

19 MR. FREIDIN: 416B.

20 MR. TUER: Q. Timber Harvest and  
21 Wildlife Habitat, OMNR slide library. Does that assist  
22 you?

23 DR. EULER: A. Yes.

24 Q. Can you tell us what is depicted  
25 there, please?

1                   A. Well, again, what I wanted to  
2 illustrate here is the same thing that I wanted to  
3 illustrate in the last slide; that is, the result of  
4 the harvest operation has been a relatively diverse set  
5 of conditions with a number of irregular shapes in the  
6 cuts, a variety of vegetation in various stages of  
7 aggregation.

8                   In this case, timber has been left in  
9 such a way that aquatic animals will use it quite  
10 effectively, and there is just a good juxtaposition of  
11 various vegetation throughout.

12                  Q. Does that look to you as though there  
13 is perhaps a bit -- there has been a bit of a  
14 compromise between the wildlife safeguards and the  
15 timbering operation. It would seem to me, first of all  
16 that around the lake that is a reserve; is it not?

17                  A. Yes.

18                  Q. And to the left of the lake there is  
19 an area that remains which perhaps would have been  
20 difficult to harvest, maybe on a steep slope?

21                  A. Oh, you mean right in here?

22                  Q. Right in there.

23                  A. Yes.

24                  Q. And are there other areas where the  
25 timber might not be of merchantable value? I guess you

1 can't tell.

2 A. Well, not for sure, no. But I am  
3 sure that that is part of why this has resulted in a  
4 reasonable example. It almost always is.

5 Q. That is a very rugged topography  
6 there; is it not?

7 A. Well, I would call it moderately  
8 rugged, yes.

9 Q. All right. Thank you, Dr. Euler.

10 Q. Now, can we turn to the last exhibit,  
11 please, which is the Interim Direction for Application  
12 of Timber Management Guidelines--

13 A. Yes.

14 Q. --for the Provision of Moose Habitat.  
15 Before I do that, I want to read to you, Dr. Euler, the  
16 evidence of Mr. Armson at page 12526 which is in the  
17 Panel 9 evidence where he says:

18 "A. Yes. I related -- previously  
19 indicated that in terms of other values  
20 in relation to wildlife, for example, the  
21 decision as to the leaving of parts of  
22 stands, as to the configuration of the  
23 cut, and I think this is much more of an  
24 appropriate concern, and as related to  
25 the configuration, the distances between

1 -- from the edge of the clearcut to some  
2 point within the clearcut become much  
3 more critical matters than the actual  
4 size, absolute area of the clearcut  
5 itself."

6 Now, do you disagree with that?

7 A. It depends on whether Dr. Armson  
8 means in every single case that is out there. I  
9 believe that that is true in some cases, but it may not  
10 be true in every case.

11 Q. And do you have high regard for Dr.  
12 Armson's opinions?

13 A. Yes, I do.

14 Q. And expertise?

15 A. Yes, I do.

16 Q. All right. Now, let's look at -  
17 what is this exhibit number? - 489, please. Did you  
18 have anything to do with the drafting of this draft?

19 A. I just want to make sure I am looking  
20 at the same item that you are.

21 Q. This is the last marked exhibit, Dr.  
22 Euler, Interim Direction for Application of Timber  
23 Management Guidelines for the Provision of Moose  
24 Habitat.

25 A. Yes, thank you. I have that here.

1 Q. Did you participate in this draft?

2 A. Yes, I did.

3 Q. All right. Is this the document you  
4 were speaking about in your evidence last week?

5 A. Yes.

6 Q. And I gather from what was said at  
7 the time of its introduction and earlier this morning  
8 by Mr. Freidin that this is nothing more than it  
9 purports to be; that is to say, a draft?

10 A. That is my understanding as well.

11 Q. It has not been put into effect yet?

12 A. My understanding that what we are  
13 looking at is a draft document. Now, I am not sure  
14 just where it is in the process of being implemented.  
15 Normally something is not implemented as a draft, it is  
16 refined further and then implemented.

17 Q. All right. Let's start at the  
18 beginning:

19 "Ontario recognizes that all of the  
20 province's wildlife is important and that  
21 most wildlife species can be accommodated  
22 within a mosaic of different ages and  
23 species of vegetation spread through a  
24 broad area (e.g., a forest management  
25 unit or a wildlife management unit). It



1 is further recognized that the timber  
2 management activity makes a major  
3 contribution towards the management of  
4 wildlife habitat. The Timber Management  
5 Guidelines for the Provision of Moose  
6 Habitat are, therefore, a key component  
7 of overall habitat management for  
8 wildlife in general."

9 You agree with that?

10 A. Yes, I do.

11 Q. "The use of these guidelines must  
12 be viewed as one step in the evolving  
13 process of managing wildlife habitat in  
14 the province."

15 What does that mean?

16 A. Well, I interpret it to mean that  
17 managing wildlife is not a static unchanging process.  
18 We learn, we change as we learn, and this is a step in  
19 the learning process.

20 Q. All right. I won't read all the rest  
21 of the next paragraph, except dropping to the last  
22 sentence:

23 "However, moose habitat also meets the  
24 needs of a range of other vertebrate  
25 species. In fact, implementation of the

1 Timber Management Guidelines for the  
2 Provision of Moose Habitat will  
3 accommodate the needs for approximately  
4 70 per cent of all vertebrates species in  
5 the boreal and Great Lakes/St. Lawrence  
6 Forest regions."

7 I guess you agree with that?

8 A. Basically, yes. There is one slight  
9 modification. We really should say -- we should  
10 include our deer guidelines as well if we are going to  
11 include the Great Lakes/St. Lawrence Forest.

12 You see, this is a draft document and  
13 that is the kind of that thing that would be done in  
14 the final revision.

15 Q. The only reason I suggest you would  
16 agree with it, because you apparently wrote it.

17 A. Well, I wrote the paper along with  
18 Dr. Baker and that is what the -- that is what Baker  
19 and Euler '89 refers to is this paper, Exhibit 433.

20 Q. I see. All right.

21 THE CHAIRMAN: Who else was involved, Dr.  
22 Euler, in the drafting of this?

23 DR. EULER: Of this interim direction?

24 THE CHAIRMAN: Yes.

25 DR. EULER: Oh, a wide number of people

1 Mr. Chairman. I think -- I've just -- I don't think  
2 anyone could actually enumerate all of the people.

3 Mr. Kendrick from our northern region was  
4 given the overall responsibility and he had wide  
5 consultation within the Ministry.

6 THE CHAIRMAN: Well, what about on the  
7 wildlife side--

8 DR. EULER: Oh.

9 THE CHAIRMAN: --other than yourself.

10 DR. EULER: I was the principal wildlife  
11 advisor and Mr. David Hogg was also involved in the  
12 wildlife side.

13 MR. TUER: Q. Was anybody from industry  
14 involved or consulted with respect to this draft?

15 DR. EULER: A. I'm sorry, I didn't hear.

16 Q. Was anybody from industry involved or  
17 consulted with respect to the drafting of this  
18 document?

19 A. I don't know.

20 Q. Not so far as you are aware?

21 A. Not as far as I am aware, that's  
22 correct.

23 Q. On page 2 it reads:

24 "Future management will likely evolve to  
25 include more explicit management of a

1 greater range of species. This process  
2 will be assisted by the developing  
3 application and the use of geographic  
4 information systems and computer modeling  
5 tools."

6 Now, can you expand on that? Is that  
7 your work that I have just read?

8 A. Well, I can expand on it. Those are  
9 not my particular words, but I can expand on what is  
10 meant, if that would be helpful.

11 Q. Would you, please.

12 A. Okay. Let's start with a basic  
13 definition of a geographic information system. That is  
14 a computerized system where basically a map is put on a  
15 computer and it allows you then to map areas of the  
16 province and deal with it on a computer and the  
17 computer will draw diagrams of the mapped area. There  
18 are a number of those tools available now and I know  
19 many forest management companies are using them.

20 Computer modeling tools are really  
21 computers used to help deal with all of the data that  
22 are available in making decisions about research  
23 management. So you might develop a model which is  
24 really a computer program that helps you make a  
25 decision. It does not make a decision for you, it just

1 helps us by keeping track of the data that are  
2 involved.

3 Q. Is this to assist in the monitoring  
4 of the continuing viability of species?

5 A. It can be used for that. It is more  
6 a management tool to try to give the manager some  
7 indication of what might happen if he makes a certain  
8 decision on managed area. That's the real purpose of  
9 it.

10 Q. All right. Is this -- does MNR  
11 currently have a geographic information system?

12 A. Well, the Ministry is engaged in a  
13 very substantial test of a geographic information  
14 system called ARC Info and we are engaged in testing  
15 that system right now for its use in the Ministry.

16 Q. All right. So at the present time at  
17 any rate what we are looking at are the existing  
18 wildlife guidelines, so far as administering the forest  
19 is concerned?

20 A. That's right. This is intended to  
21 look at what may happen in the future.

22 Q. All right. In looking at the  
23 principles:

24 "Moose are not randomly distributed,  
25 their distribution is a function of



1                   several factors of which habitat is  
2                   probably most important, therefore, the  
3                   guidelines should not be applied with  
4                   equal rigor everywhere."

5                   That is your view I take it?

6                   A. Yes, it is.

7                   Q. And that gets back to the  
8           professional discretion and judgment which has to be  
9           exercised by the local manager?

10                  A. Yes.

11                  Q. "Such parameters of shape and  
12                  cover to cover distances are more  
13                  important to most wildlife than the  
14                  absolute size of an individual timber  
15                  harvest area."

16                  That seems to be what Mr. Armson is  
17           saying. Do you agree with this?

18                  A. Well, in the real world, yes.

19                  Q. Okay. Did you write that?

20                  A. No.

21                  Q. Thirdly:

22                  "The anticipated effect of an individual  
23                  cut should not be viewed in isolation but  
24                  should be evaluated in the context of the  
25                  adjacent forest and the balance of the

1 management unit."

2 Do you agree with that?

3 A. Yes, I do.

4 Q. And I take it that goes back to what  
5 you said in answer to my questions this morning and  
6 last week in your evidence-in-chief, that you have to  
7 look at the broad spectrum rather than--

8 A. That's right.

9 Q. --the individual site?

10 A. Yeah. That is a major theme of my  
11 evidence.

12 Q. That is your benchmark, or one of  
13 your benchmarks?

14 A. Well, yes.

15 Q. Thank you:

16 "Application of the guidelines should be  
17 responsive to sound, biological and  
18 silvicultural principles and objectives."  
19 Again, first, you agree with that; do  
20 you?

21 A. Yes, I do.

22 Q. I take it you agree with everything  
23 in this paper; do you?

24 A. No.

25 Q. Okay. We will go through it and let

1 me find what you don't agree with.

2 A. You have to understand that I have an  
3 opinion as a professional and, at the same time I work  
4 for a Ministry and I support what my Ministry does as  
5 my employer, but that doesn't mean I agree with every  
6 single item that is ever said in the Ministry document.

7 Q. All right.

8 THE CHAIRMAN: I think we should make it  
9 clear that we are also interested in your professional  
10 opinion.

11 DR. EULER: Fine, and I will be happy to  
12 give you that, but you also must understand that when  
13 we do these things in the Ministry we have extensive  
14 discussion.

15 My views were heard -- well heard within  
16 the Ministry and not everyone can ever expect to have  
17 all their views reflected in every document. And that  
18 is my position here.

19 MR. TUER: Q. You are working on  
20 consensus; are you?

21 DR. EULER: A. Many, many times we work  
22 on consensus.

23 Q. The only reason I asked that question  
24 is because I was trying to shorten it a bit, but that  
25 doesn't matter.

1 A. And look what you did.

2 Q. And look what I did. Lost again.

3 "Application of the guidelines should be  
4 responsive to sound biological and  
5 silvicultural principles and objectives."

6 Now, again I take it that requires a fair  
7 amount of discretion on the part of the district  
8 biologist or district manager?

9 A. Yes, it does.

10 Q. "Application of the guidelines should  
11 be integrated with the needs of other  
12 forest values and uses and in full  
13 consideration of the various targets and  
14 Objectives established by the Ministry."

15 Well, again I suggest to you that that is  
16 a statement of exercise judgment and discretion and, to  
17 a certain extent, a statement of the need for  
18 compromise?

19 A. Yes, indeed that is true.

20 Q. On the question of flexibility:

21 "The Timber Management Guidelines for the  
22 Provision of Moose Habitat are mandatory  
23 for use in the timber management planning  
24 process, however, there is flexibility in  
25 their on-site application and they

1 reflect a habitat standard to which the  
2 Ministry subscribes. Provision for  
3 flexibility does not signal that the  
4 general standards have changed."

5 So that is a statement I take it of what  
6 exists at the present time?

7 A. Yes, correct.

8 Q. "The interim guidance from --"

9 THE CHAIRMAN: Excuse me one second.

10 Where would the standard be articulated? Like you talk  
11 about, they reflect a habitat standard to which the  
12 Ministry subscribes, but where --

13 DR. EULER: Well, that would be in the  
14 moose guidelines.

15 THE CHAIRMAN: That would be in the  
16 guidelines?

17 DR. EULER: Yeah, right.

18 THE CHAIRMAN: That's referring to the  
19 guidelines themselves?

20 DR. EULER: That's right.

21 MR. TUER: Q. And on page 3:

22 "Interim guidance on flexibility is  
23 necessary for the following reasons:

24 First, to ensure some equity in  
25 consistency of application of the



1 guidelines where conditions are similar  
2 across the province.

3 Secondly, to develop greater knowledge  
4 through monitoring of the relationship  
5 between population levels and habitat  
6 change.

7 Thirdly, to permit time for staff and  
8 industry to gain experience in  
9 application of the guidelines.

10 And, finally, to recognize the probable  
11 evolution from featured species  
12 management to more complex forms of  
13 wildlife management."

14 Now, do I take it that those four  
15 statements are statements of in what respects the local  
16 manager or local biologist should be exercising his  
17 discretion?

18 DR. EULER: A. Yes.

19 Q. How does that differ from what exists  
20 at the present time?

21 A. Well, the major way -- well, no, that  
22 doesn't differ from what exists at the present time  
23 right now.

24 Q. I suppose if it differs in any  
25 respect, it's that these guidelines are saying: Don't

1 apply the guidelines by rote, take into consideration  
2 these various matters; is that so?

3 A. Yes, that's right. That's right. In  
4 my view that is very -- that is really the same as what  
5 we are doing right now.

6 Q. And continuing on to the formula:  
7 "The habitat standards as contained in  
8 the guidelines should be applied to  
9 a significant area of the five-year  
10 timber operating plan where a harvest  
11 block or a combination of contiguous  
12 harvest blocks are proposed to  
13 significantly exceed the standards in the  
14 guidelines; namely, two times the  
15 standard."

16 And if you go to the moose guidelines  
17 that is two times 130 hectares?

18 A. Yes.

19 Q. "These exceptions should be  
20 specifically listed in the timber  
21 management plan together with sound  
22 biological and silvicultural rationale."

23 At this stage of the evolution of this  
24 document or this directive, has it been determined who  
25 is responsible for listing the rationale for exceptions

1 in the timber management plan?

2 A. No, not to the best of my knowledge.

3 Q. That's right up in the air?

4 A. It hasn't been determined whether  
5 there would be Ministry staff who would have to  
6 specifically list them or company staff that have to  
7 list them. To the best of my knowledge, at this point,  
8 that has not yet been determined.

9 Q. So it has not been determined the  
10 extent to which there would be company input into that  
11 process?

12 A. Well, I'm sure there will be  
13 extensive public input, it's just who is going to be  
14 responsible for writing them down is not clear yet.

15 Q. I am sorry, I didn't mean public  
16 input, if I said that, I am sorry; I meant industry  
17 input or company input?

18 A. Oh, I am sure there will be extensive  
19 industry input. It is just we have not yet determined  
20 who will be responsible. One would expect it might be  
21 the author of the plan, and that would be my normal  
22 expectation.

23 Q. Has there been any determination as  
24 to - here we get back to the discussion we had this  
25 morning - as to the manner of identifying the clearcut

1 areas or the harvest blocks?

2 A. I'm sorry, I am puzzled a little  
3 about your question.

4 Q. I'm sorry. As to what constitutes a  
5 boundary of a block, if you will, how you determine the  
6 size of a clearcut?

7 A. No, that has not been resolved to the  
8 best of my knowledge.

9 Q. Going on:

10 "The Regional Director shall review this  
11 information when approving the plan. In  
12 cases where the exceptions noted above  
13 result in the guidelines not being  
14 applied to 60 to 80 per cent of the  
15 harvested area and operating plan, the  
16 approval of the appropriate field ADM  
17 will be required."

18 First of all - perhaps an idle question -  
19 why does it say 60 to 80 per cent?

20 A. Well, there is a quite a story behind  
21 this. Do you have the afternoon or...

22 Q. No, I suggested it might be an idle  
23 question, but normally I would have thought that it  
24 would be 60 or 80, or some other figure specifically?

25 A. Well, it is those idle questions that

1 cause problems. Well, if you would permit me, let me  
2 speak to this exhibit and try my best to explain our  
3 thinking as best I can.

4 Q. Okay.

5 MR. FREIDIN: The witness is referring to  
6 Exhibit 481.

7 DR. EULER: To explain this I have to  
8 come back and talk about the problem a bit and the  
9 problem has been, as I gave in my evidence, that we  
10 haven't had as common an understanding of how to apply  
11 the guidelines across the province as we had hoped we  
12 would have.

13 This has resulted in some, and not all,  
14 situations such as the one I showed you on the screen.  
15 And while in theory the best approach is to say: Okay,  
16 here are the guidelines, go out and implement them,  
17 again as I gave in my evidence, we do have different  
18 skill levels of practitioners across the province.

19 So it was judged best to put some bounds  
20 on the flexibility that is given to managers to try to  
21 reduce some of the inconsistency that has been  
22 observed. So instead of having cart blanche or wide  
23 open flexibility, it was deemed important that we bring  
24 in the boundaries of flexibility a bit.

25 And so -- and yet at the same time we are



1       trying hard not to impose an unrealistic restriction on  
2       timber companies. We try to walk this line between  
3       being responsible to everyone who is involved in the  
4       forest.

5                       So the reason we did this is, essentially  
6       the management units have been divided into this 60 to  
7       80 per cent area and the 20 to 40 per cent area. Now,  
8       as a professional biologist my understanding and belief  
9       is that if the moose guidelines are applied in most of  
10      the area, then we should be able to meet our moose  
11      targets as well as provide habitat for other wildlife  
12      that are there. But there is room in other parts of  
13      the unit when silvicultural justification can be  
14      advanced to harvest different from the guidelines.

15                     And so in trying to say: Well, what do  
16      you mean, Dr. Euler, by the majority of the wildlife  
17      management unit, it just isn't enough to say majority  
18      because then again you don't -- you can't bring your  
19      parameters of flexibility down.

20                     So when the question was asked: What do  
21      you mean by the majority, my answer was in the 60 to 80  
22      per cent range.

23                     Q. So you are saying the difference  
24      between 60 and 80 is pure discretion?

25                     A. Yes.

1 Q. Depending upon the local  
2 circumstances?

3 A. That's right. Depending on the local  
4 circumstances, that's right.

5 Q. Okay. Now, in situations where,  
6 let's say, you have got a clearcut of somewhere between  
7 130 or 260 hectares, is that purely a local matter?

8 A. The Regional Director is obliged to  
9 review that and then the Regional Director then would  
10 make a judgment about the appropriateness of it.

11 Q. Well, I'm sorry, I don't read it that  
12 way, I may be misreading it.

13 I thought this -- as this reads, or the  
14 situation is that the block cut, as it is called here,  
15 or harvest block as it is called here, exceeds 260,  
16 then the Regional Director must review the information?

17 A. Yes. And I'm sorry, I may just not  
18 have heard you correctly, but that is what I meant to  
19 say. It is when it exceeds 260.

20 Q. What happens when it is between 130,  
21 which is the existing guideline, and 260?

22 A. And 260. Well, then it is the normal  
23 timber management planning process is involved and no  
24 special notes have to be made.

25 Q. It is done at the local level?

1 A. Yes.

2 Q. All right.

3 THE CHAIRMAN: What is the area in these  
4 that you disagreed with?

5 DR. EULER: You see, what this - my  
6 feeling is, and this is my personal feeling, Mr.  
7 Chairman, I want to emphasize that and, you know, it  
8 isn't necessarily right at all - is that what we should  
9 be doing is concentrating on our objectives and not  
10 concentrating so much on the tools, because this tends  
11 to reduce the flexibility of the practitioner of the  
12 yard.

13 And what we should say to the  
14 practitioner is: Here is why you are there and you  
15 should produce moose, you should be very concerned  
16 about the other vertebrates that are out there besides  
17 moose, and you should use whatever tools and techniques  
18 are necessary to get that result.

19 Now, I know as a professional biologist  
20 that he can't achieve the moose targets and protection  
21 for the other habitat needs and do bad forestry; he  
22 just can't do it, it's impossible.

23 Now, the problem for the Ministry is a  
24 little bit different, however, because we have to  
25 have -- we not only have to do things right, we have to

1 try to appear to do them right and because we find  
2 these relatively small number of very difficult  
3 problems where we didn't have a common understanding  
4 about how to apply the guidelines, and we developed  
5 problems such as the picture I show where you have a  
6 line running through the bush and it has no biological  
7 reality at all, the judgment of the Ministry was - and  
8 it has a lot of merit - we should then reduce the  
9 bounds of flexibility somewhat just because there are  
10 so many people who are so concerned and, therefore, we  
11 are responding to that concern.

12 THE CHAIRMAN: Wouldn't it help though to  
13 have the guidelines or the tools in order to be better  
14 able to identify where you went wrong later on?

15 In other words, going back and saying:  
16 If wildlife protection wasn't enhanced to the degree  
17 that we wanted it to, perhaps it was in a particular  
18 case because we exceeded certain levels of cut--

19 DR. EULER: Yeah.

20 THE CHAIRMAN: --that could have been  
21 identified in this process but, using your own feeling,  
22 wouldn't have been identified if you didn't worry about  
23 the tools.

24 DR. EULER: Well, no. You see, I  
25 couldn't agree with that because a record will always



1 be there of what you did, and so you can relate what  
2 you did to what happened, and that's what we should be  
3 doing.

4 That's the whole business of adaptive  
5 management, when you take a management action you  
6 should then record what happened and learn from it.

7 Now, what this does is it reduces the  
8 flexibility of our people somewhat, not horribly, and  
9 they will still be able to do good management. The  
10 problem is, it is going to be a little more involved in  
11 writing it down and getting approvals and so on. And  
12 it is not going to produce bad habitat for wildlife - I  
13 should also emphasize that - in fact, the result of  
14 this is going to be good wildlife habitat.

15 It is a question of how you approach your  
16 task of managing the forest. And my feeling is that  
17 one should set -- as I led in my evidence, one should  
18 set objectives and then try to attain those objectives.

19 MR. TUER: Q. Dr. Euler, just carrying  
20 on from that answer, in the situation of where one  
21 is -- there has been agreement that the size of a  
22 particular clearcut would be somewhere between 130 and  
23 260 hectares, is there any special reporting that's  
24 required under this proposition?

25 DR. EULER: A. No.



1                   Q. So I am just trying to delve into the  
2                   bureaucratic labyrinth which you are much more familiar  
3                   with than I am. Nothing has changed then, is that what  
4                   you are saying, up to 260?

5                   A. Yes, that's what I am saying.

6                   THE CHAIRMAN: Well, Mr. Tuer, is what  
7                   you mean in no further reporting, no further consents  
8                   needed. It would be reported in the sense that it  
9                   would be delineated on the plan; would it not?

10                  DR. EULER: Oh, yes. In the normal  
11                  planning operation, yes.

12                  MR. TUER: I understand that. It would  
13                  be in the timber management plan.

14                  DR. EULER: Yes, it would be recorded in  
15                  that process.

16                  MR. TUER: Q. But would its  
17                  justification?

18                  DR. EULER: A. No. There would be no  
19                  special justification, no.

20                  Q. It would just be reported as a  
21                  part --

22                  A. It would be reported, yes, as part of  
23                  that planning process.

24                  Q. It would not be necessary for the  
25                  local forester or biologist in the timber management

1 plan to set out the reasons why it is--

2 A. That's correct.

3 Q. --more than 130 or less than 260?

4 A. That's correct, yes.

5 Q. Is there a timetable for this?

6 A. The plan is that this would be  
7 implemented for approximately two years and our hope is  
8 that at the end of that time we can go back to the  
9 normal management planning process.

10 Q. Which would return somewhat more  
11 flexibility--

12 A. Yes.

13 Q. --and judgment to the exercise of  
14 judgment of the local forester?

15 A. Yes.

16 Q. The local manager, rather?

17 A. Yes.

18 Q. Thank you.

19 MR. TUER: Now, I have some  
20 interrogatories here. They are questions 27(c), 28,  
21 30, 31, 32, 33, 34, to which is attached a table and  
22 notes -- explanatory notes of what is on the attached  
23 table which I would like to make Exhibit 490, Mr.  
24 Chairman.

25 THE CHAIRMAN: Very well. Exhibit 490

1 for the package. Excuse me, could we have one extra  
2 copy up here for the record?

3 MR. SHIBITANI: (handed)

4 THE CHAIRMAN: Thank you.

5 ---EXHIBIT NO. 490: OFIA Interrogatory Question  
6 Nos. 27(c), 28, 30, 31, 32, 33, 34  
and answers thereto.

7 MR. TUER: Q. Are you familiar with this  
8 chart that's attached, Dr. Euler?

9 DR. EULER: A. Yes, I am.

10 Q. It is not very legible, but...

11 MS. SWENARCHUK: Mr. Chairman, I have a  
12 number of the same documents, photocopies of the  
13 interrogatories that I plan to use and my version of  
14 the charts is a larger version. If I could just file  
15 those now so people...

16 MR. TUER: That would be splendid, as far  
17 as I am concerned.

18 THE CHAIRMAN: Very well. I suppose we  
19 should give it a separate number. Are you going to  
20 file your interrogatories as a package with the charts,  
21 or the charts separately?

22 MS. SWENARCHUK: Since they are all drawn  
23 up -- since they are all compiled already, I would just  
24 as soon file the whole package.

25 THE CHAIRMAN: All right. This package

1 of interrogatories which contains a number of questions  
2 on behalf of the Forests for Tomorrow will be exhibited  
3 as Exhibit 491.

4 ---EXHIBIT NO. 491: Package of Interrogatories filed  
5 by Forests for Tomorrow.

6 THE CHAIRMAN: Which ones are you going  
7 to work from, are you going to work from --

8 MR. TUER: I will work from Ms.  
9 Swenarchuk's because it is much easier on the eyes.

10 THE CHAIRMAN: Thank you.

11 MR. TUER: Exhibit 491.

12 THE CHAIRMAN: Thank you.

13 MR. TUER: Q. Dr. Euler, could you help  
14 us please in reading this chart. Starting in the first  
15 column, we have moose reserves and modified operations  
16 under the heading of Dryden District, is it?

17 DR. EULER: A. Yes.

18 Q. We have 2/66. What does the 2 stand  
19 for?

20 A. Okay. Well, if you just go down to  
21 the Note No. 1 it says the first number is the number  
22 of instances and the second number is the number of  
23 hectares.

24 So in this case there were two cases or  
25 instances in Dryden where reserves were applied for

1 moose and the total was 66 hectares.

2 Q. All right. Now, what was that  
3 particular management unit in Dryden, or was it a  
4 single management unit?

5 A. Well, each number here has a specific  
6 story and without going back to my other information I  
7 can't tell where that was.

8 Q. I don't mean where it is  
9 geographically. Does it refer to a single management  
10 unit?

11 A. Well, I can't tell that without  
12 looking at my file.

13 Q. Well --

14 A. It could.

15 Q. Look back on the notes on attached  
16 table behind the chart -- I'm sorry, ahead of the  
17 chart.

18 A. Yes, yes, okay.

19 Q. It reads in the second paragraph --  
20 or third paragraph:

21 "For the districts noted, these are the  
22 numbers of management units included in  
23 the calculations: Dryden..."

24 You have 1 in brackets.

25 A. Yes. Okay, thank you, it is there



1 and I was not aware of that.

2 Q. Fort Frances --

3 A. So that would be one management unit  
4 in Dryden.

5 Q. One or two?

6 A. Well, I would have thought one.

7 Q. Oh, I see. All right. It is one  
8 management --

9 A. Two instances.

10 Q. Two instances in one management unit?

11 A. That's right.

12 Q. And the next one is Fort Frances  
13 which has -- it's information from three management  
14 units, 33 instances and 650 hectares?

15 A. Yes, that's correct.

16 Q. And so forth?

17 A. Yes.

18 Q. And deer reserves reads the same --  
19 in the same fashion; does it?

20 A. Yes, it does.

21 Q. And in brackets you have modified  
22 operations (27/967) hectares--

23 A. Yes.

24 Q. --Kenora. What does that refer to?

25 A. Well, it just means there were 27

1 instances in which timber management operations were  
2 modified on behalf of deer.

3 Q. All right. And then going down to  
4 endangered bald eagle of Fort Frances, you have got 6  
5 and a question mark. And if you go down to Note 3 --

6 A. Yes, Note 3: Where a question mark  
7 appears area figures are not available.

8 Q. Again you see the number of areas  
9 affected -- or the number of hectares affected?

10 A. Yes, that's correct.

11 Q. Similarly with the osprey and the  
12 blue heron?

13 A. Yes.

14 Q. And the fish reserves, we have 30  
15 instances involving 300 hectares. Do I read that  
16 correctly?

17 A. Oh, yes, for Dryden. Yes, that's  
18 correct.

19 Q. Is that hectares of timberland or is  
20 that hectares of water?

21 A. Oh, that would be timberland, I am  
22 sure.

23 Q. That's the reserves around the water?

24 A. Yes, mm-hmm. Yes, mm-hmm.

25 Q. Okay. Let's go down to the bottom

1 under Dryden we have under A: Total hectares in  
2 reserve for Fish/Wildlife plant values, 366; B: Total  
3 hectares in reserves for all purposes, 446 hectares?

4 A. Yes.

5 Q. Out of a total of 8,240 hectares?

6 A. Yes, planned for harvest. Yes.

7 Q. I take it that the 446 is part of the  
8 8,240; is it?

9 A. Yes.

10 Q. So that gives you a percentage of 5  
11 per cent of the planned harvest that has been set  
12 aside?

13 A. Yes.

14 Q. And running across that percentage  
15 varies from 8 to 19, 7, 12, 2, 5, 10, 14 and so forth?

16 A. Yes.

17 Q. That is the percentage of land that  
18 has been set aside as reserves or modified operations  
19 as protection for other values?

20 A. That's correct.

21 Q. Thank you, Dr. Euler.

22 Dr. Allin, I have a few questions for  
23 you. Do you have the Timber Management Guidelines for  
24 the Fish Habitat?

25 DR. ALLIN: A. Yes, I do.

1 Q. And the Code of Practice?

2 A. Yes, I have that as well.

3 Q. And Exhibit 304 which is the  
4 Fisheries Policy Statement No. F13-03-01?

5 A. That's correct.

6 Q. Okay. Now, which came first? Did  
7 the --

8 A. The Fish Habitat Guidelines  
9 themselves were prepared first.

10 Q. And then we come to Exhibit 304.  
11 Have you got that?

12 A. Yes, I do.

13 Q. In the second paragraph --

14 A. Second page?

15 Q. First page, I am sorry. First page,  
16 second paragraph it reads:

17 "Protection of water quality and fish  
18 habitat may necessitate restricting the  
19 location of timber management operations  
20 in specific areas or modifying operations  
21 in certain ways. The nature of these  
22 restrictions and modification is  
23 described in the Timber Management  
24 Guidelines for the Protection of Fish  
25 Habitat, hereinafter referred to as the

1 Guidelines. Additional operational  
2 measures to protect water quality and  
3 fish habitat are contained in the  
4 Ministry's Code of Practice for Timber  
5 Management Operations in Riparian Areas."

6 That would indicate to me that the  
7 guidelines came first, the Code of Practice came second  
8 and this policy statement came third?

9 A. Actually, the guidelines came first,  
10 the policy was developed at about the time that the  
11 fish guidelines were being approved, and the Code of  
12 Practice had I think just begun to be under development  
13 at that time.

14 So the Code was approved last of the  
15 three.

16 Q. All right. I took it from reading  
17 that paragraph that that was in the present tense not  
18 the future sense as to the existence of the Code of  
19 Practice.

20 A. That's right. The statement was  
21 written in anticipation that the Code would be produced  
22 because it was under development at the time.

23 Q. Thank you. Then dropping down to the  
24 next to last paragraph:

25 "The policy is based on the premise that



1 information essential to effective  
2 application of the guidelines must be  
3 available for guidelines to be used and  
4 that this information must be collected  
5 according to minimum standards. If  
6 available information does not meet these  
7 standards, fish habitat must be protected  
8 in a conservative manner which will  
9 maintain water quality and any fish  
10 habitat values which may be present. As  
11 more information becomes available, it  
12 may be possible to reduce or eliminate  
13 constraints on timber management  
14 operations."

15 I take it that is a statement of a  
16 conservative approach to fish habitat management?

17 A. Yes, that's correct, although it  
18 relates specifically to situations in which all of the  
19 information needed to apply the guidelines to the full  
20 is not available. So it is -- the term conservative  
21 approach is used in that context in that paragraph.

22 Q. In other words, walk cautiously until  
23 you know what's there?

24 A. That's right.

25 THE CHAIRMAN: But you will never reach

1       that stage; will you, in terms of surveying all the  
2       lakes and that sort of thing?

3                     DR. ALLIN: No, that's correct.

4                     MR. TUER: Q. Then on to the next page,  
5       go to paragraph numbered 2:

6                     "Information shall normally be obtained  
7                     through surveys conducted to standards  
8                     described in the Manual of Instructions  
9                     for Aquatic Habitat Inventory Surveys.  
10                    The use of any other survey method must  
11                    be approved by a Ministry fisheries  
12                    biologist."

13                    And following that in paragraph 3 and 4  
14       are various methods of collecting the information.

15                    Now, I take it it is envisaged that this  
16       is information that would be collected by the Ministry  
17       rather than the company or operator?

18                    A. The policy really is silent on that  
19       point, but certainly historically the Ministry has  
20       collected all of the information that relates to those  
21       sections.

22                    Q. The company doesn't overnight set  
23       some traps and do electrofishing and netting and that  
24       sort of thing; does it?

25                    A. No, it does not.

1 Q. That is something -- that is within  
2 the expertise of your part of the Ministry; is it not?

3 A. Yes, it is.

4 Q. And then on the next page, Collection  
5 of Information, Item 1:

6 "Managers shall endeavor to collect  
7 minimum information required for water  
8 systems as defined in this policy."

9 Do I take it that managers should be  
10 interpreted as MNR manager?

11 A. Yes, that's correct.

12 Q. Not the company manager of the FMA?

13 A. Right.

14 Q. And similarly in paragraph No. 2.

15 And then dropping down to the use of the guidelines, it  
16 reads:

17 "The guidelines shall be used to protect  
18 water quality and fish habitat as  
19 follows."

20 Item (c):

21 "Where waters do not contain fish habitat  
22 requiring protection, the guidelines  
23 shall be used to protect water quality as  
24 follows..."

25 And then it describes headwater lakes and

1 other lakes and streams, and following upon that:

2 "Insufficient Information:

3 (1) In cases where available information  
4 does not meet minimum requirements for  
5 available information, fish habitat shall  
6 be protected as follows:

7 (a) if slope measurements are not  
8 available, 90 metre areas of concern be  
9 shall be maintained on shorelands  
10 selected for timber management  
11 operations."

12 What does that mean, if slope  
13 measurements are not available?

14 A. Well, the full use of the Fish  
15 Habitat Guidelines requires that slope information be  
16 available in order to determine the width of the area  
17 of concern that is identified to protect a particular  
18 value.

19 Q. So if you don't measure the slope you  
20 use the maximum?

21 A. That's right.

22 Q. And on the following page, Item (c):  
23 "Timber harvesting within areas of  
24 concern shall be restricted to the  
25 following option:

1 (1) No harvest, (2) Selection cutting  
2 where it can be demonstrated that fish  
3 habitat will be protected."

4 And my question there, sir, is: Who is  
5 responsible for demonstrating that fish habitat will be  
6 protected?

7 A. The phrase as it's used and it is  
8 used in several places throughout the fish guidelines  
9 as well, really was intended to mean that there should  
10 be a rationale developed that would indicate how and  
11 why fish habitat would be protected.

12 If a prescription is proposed that would  
13 deviate from the normal application of the guidelines,  
14 or where -- particularly for where operations were  
15 going to -- were proposed for riparian areas of  
16 concern.

17 In other words, if you are going to  
18 operate within a riparian area of concern, there is  
19 some obligation to show that what is proposed will be  
20 done sufficiently carefully that fish habitat will be  
21 protected.

22 Q. Yes, I understand that, sir. But who  
23 makes that decision? Who has -- who is the onus on?

24 A. Well, I think at a technical level  
25 the person who must be convinced that fish habitat will



1 be protected is the biologist on the planning team, but  
2 ultimately the district manager will make the decision  
3 about what is going to happen with respect to a  
4 specific area of concern.

5 Q. Well, all right, I understand that,  
6 but Tuer comes along, he says: I want to do some  
7 modified harvesting in this area of concern, do I have  
8 to satisfy you as the biologist that a) I should be  
9 allowed to do it; and b) how I am going to be allowed  
10 to do it?

11 Or is that something you say: Well, I  
12 will take a look at it and I will see if it can be  
13 done. You are the guy with the expertise. How does it  
14 work in the field, in reality?

15 A. Well, my understanding of it would be  
16 the latter, that the company would, or the Ministry in  
17 some cases, would propose a specific prescription for  
18 an area of concern, the biologist would discuss the  
19 implications of that prescription with whoever was  
20 proposing it and together they would come to some  
21 meeting of the minds as to what was feasible and what  
22 wasn't.

23 Q. I see.

24 A. And yet would still protect the fish.

25 Q. I see. So it's a cooperative

1       endeavour?

2                   A. Yes, it is.

3                   Q. All right.

4                   THE CHAIRMAN: We are proposing, Mr.  
5 Tuer, to take a short break soon. I don't know if this  
6 would be a convenient time.

7                   MR. TUER: That is fine. Right now is  
8 fine.

9                   THE CHAIRMAN: 20 minutes.

10       ---Recess taken at 3:00 p.m.

11       ---Upon resuming at 3:35 p.m.

12                   THE CHAIRMAN: Thank you, ladies and  
13 gentlemen. Please be seated.

14                   Mr. Tuer, could you give us some  
15 indication of where you might be in your  
16 cross-examination?

17                   MR. TUER: I exile from what I said this  
18 morning. I may not finish today, depending upon how  
19 long we are going to sit.

20                   THE CHAIRMAN: I think the Board will try  
21 and rise at about five today. Okay.

22                   MR. TUER: I will do my best.

23                   THE CHAIRMAN: And if not, we can just  
24 continue on tomorrow morning with you.

25                   MR. TUER: Fine.

1 Q. Dr. Allin, do you have the  
2 guidelines, Exhibit 303?

3 DR. ALLIN: A. Yes, I do.

4 Q. Okay. I just want to refer you to  
5 some paragraphs to put things in perspective here.  
6 First of all, in the preface, the bottom of the  
7 left-hand side it reads:

8 "The guidelines are intended to provide a  
9 conservative approach to the protection  
10 of fish habitat across Ontario. Because  
11 of the many site-specific factors  
12 affecting requirements for protection,  
13 the guidelines should be used with some  
14 flexibility, however any depart..."

15 MR. TUER: Have I read this already?

16 THE CHAIRMAN: No, no, go ahead.

17 MR. TUER: "However, any..." It all  
18 blends into -- blurs into the same sort of thing after  
19 you have read it three or four times before.

20 THE CHAIRMAN: It is not the first time  
21 we have ever heard the words, but I don't think you  
22 have read it specifically before.

23 MR. TUER: Well, I am sure that I am  
24 reading it just as well as anybody else has.

25 THE CHAIRMAN: Without a doubt.

1 MR. TUER: Q. "However, any departure  
2 from the guidelines must be consistent  
3 with the objective of protecting fish  
4 habitat. In some cases, adherence to the  
5 guidelines may impose severe constraints  
6 on timber management. For example,  
7 restrictions on road locations near lakes  
8 and streams could prevent any timber  
9 management operations from occurring  
10 within a large area. Where no reasonable  
11 alternative exists, exceptions to the  
12 guidelines may be considered provided it  
13 can be demonstrated that operations can  
14 be carried out so as to ensure protection  
15 of fish habitat."

16 So there is some flexibility in that  
17 statement of policy in the preface?

18 DR. ALLIN: A. Yes, that's correct.

19 Q. And then on page 4, at paragraph --  
20 the bottom paragraph on the left-hand side:

21 "The guidelines are intended to provide a  
22 consistent approach to the protection of  
23 fish habitat across Ontario. Because of  
24 the wide range of forest types, site  
25 conditions, climatic factors and fish

1 habitats in the province, the guidelines  
2 should be used with some flexibility and  
3 should be adapted to local conditions."

4 Flexibility again?

5 A. Correct.

6 Q. Then in the Code of Practice, which  
7 is Exhibit 434, in the first page Introduction, the  
8 second last paragraph which has been referred to before  
9 as well:

10 "This Code of Practice is essentially  
11 based on common sense and the application  
12 of professional expertise which has  
13 been gained through practical experience.  
14 The practices are simply expressed so  
15 that clear on-the-ground instructions can  
16 be given to equipment operators."  
17 Again, reliance upon professional  
18 expertise and local professional discretion?

19 A. Yes, it does.

20 Q. Flexibility?

21 A. Yes.

22 Q. Now, there was some correspondence  
23 which has also been referred to before, Exhibit 5A,  
24 between the MNR and the MOE. Are you familiar with  
25 that correspondence?



1 A. Generally. I don't have a copy with  
2 me, though.

3 Q. And, in particular, Attachment 3.

4 MS. BLASTORAH: (handed)

5 THE CHAIRMAN: What was the exhibit  
6 number, Mr. Tuer?

7 MR. TUER: 5A, Mr. Chairman.

8 Q. If you look well toward the back of  
9 that document you will find Attachment 3, dated March,  
10 1988.

11 Q. Now, these are -- have you got that,  
12 sir?

13 DR. ALLIN: A. Yes, I do.

14 Q. These are decisions that were made by  
15 MNR and MOE following discussions according to the  
16 caption on the document. And are those decisions, if  
17 you will, reflected in the policy statement?

18 A. Yes, they are.

19 Q. What was it that MOE was concerned  
20 about; was it water quality apart from fish habitat?

21 A. That's correct, it was water quality.

22 Q. And what were they looking for? Why  
23 was this a matter of concern?

24 A. I believe they wanted some assurance  
25 that the guidelines would, first of all, be used in a

1 consistent fashion and that those portions of the  
2 guidelines which address timber management operations  
3 in shoreline areas would be clarified such that there  
4 would be a limit placed on the amount of clearcutting  
5 on shorelines.

6 Those were the two major interests that  
7 they expressed.

8 Q. Has that in fact been reflected in  
9 the policy statement that I referred you to?

10 A. Well, the first point I mentioned  
11 about the consistent fashion is reflected in the policy  
12 statement. The second point I made about limiting  
13 clearcutting on shorelines of warm water lakes is  
14 expressed in the Fish Guidelines themselves.

15 The guidelines were modified to  
16 incorporate a little more specific direction than had  
17 been there before.

18 Q. Yes. Now, this was raised earlier in  
19 the evidence today with a question from Mr. Martel, and  
20 it has also been discussed earlier in the evidence of  
21 Mr. Douglas.

22 I want to read to you what he said in  
23 cross-examination at page 724 - it was a long time  
24 ago - Volume V on May the 16th, 1988.

25 THE CHAIRMAN: Which year, '88?

1 MR. TUER: Q. The question continues:  
2 "So, Mr. Douglas, if I understand the  
3 statement you have written there, you are  
4 saying that a policy, for example,  
5 of preserving forests near shorelines  
6 from logging and road-building did not  
7 protect either the forests or the  
8 shoreline. Is that your testimony?  
9 A. I think the word is appropriate  
10 solutions as apposed solutions. There  
11 were some cases where, for example, upon  
12 analysis there was no reason why some of  
13 the wood couldn't be taken out of those  
14 areas that were previously identified as  
15 reserves. One could do that and still  
16 protect the water quality. I think it is  
17 a matter of getting down and doing a  
18 specific analysis. What you are  
19 trying to do is to achieve certain  
20 objectives, one is provide wood - is the  
21 purpose of the undertaking - and also  
22 recognize that you are going to protect  
23 other values in the environment, one  
24 should do a site-specific analysis."  
25 Do you agree with that, Dr. Allin?

1 DR. ALLIN: A. It would help. I am  
2 sorry, I don't have the page number that you are  
3 referring to.

4 Q. 725, 724, starting at about line 8.  
5 I won't read it aloud again. If you would read to the  
6 bottom of page 724, I will then read aloud.

7 A. My only uncertainty is the reference  
8 to areas that were previously identified as reserves on  
9 line 19. I am not sure of the context of that  
10 statement.

11 If it is a historical one in terms of  
12 practices that were used in the past, the so-called  
13 doughnut approach, then I --

14 Q. The 400-foot reserve?

15 A. Yes, then I agree with that.

16 Q. Yes, that is what has been referred  
17 to. I am sure there will be no disagreement about  
18 that. And carrying on:

19 "And when that indicates that, for  
20 example, you can protect those other  
21 values and still harvest wood, it just  
22 makes good common sense to harvest the  
23 wood."

24 MR. MARTEL: Could I ask a question? Are  
25 we talking about a lot of wood in a

1 400-foot reserve, merchantable wood?

2 MR. DOUGLAS: Yes, you can talk about a  
3 significant amount depending on the  
4 configuration of lakes in a given area.

5 If you get out in the northwest, for  
6 example, where there is a lot of lakes  
7 and you sit down and look at a map and  
8 you start putting 400 feet around each  
9 one of those, you are talking about a lot  
10 of area. Now, I can't give you a  
11 specific number, but it is significant  
12 when you have a great variety of lakes."  
13 Do you agree with that?

14 A. Yes I do.

15 Q. Thank you. So the so-called doughnut  
16 reserve was abolished as a practice?

17 A. Yes, that's correct.

18 Q. And depending upon the examination of  
19 the local situation, cutting is permitted in certain  
20 circumstances in those areas?

21 A. Well, consistent with what is  
22 expressed in the Fish Habitat Guidelines, yes.

23 Q. Yes, of course.

24 A. Yes.

25 Q. Of course.



1 A. Yes, that's right.

2 Q. But there's no absent prohibition?

3 A. No, that's right.

4 Q. If the local conditions permit it, it  
5 should be permitted?

6 A. Well, there are limits within the  
7 Fish Habitat Guidelines themselves as to the kind or  
8 extent of cutting on certain kinds of lakes.

9 Q. I understand that.

10 A. Right.

11 Q. I am talking within the context of  
12 the guidelines themselves, do you agree that if the  
13 conditions permit it, there is nothing objectionable  
14 about allowing the cutting to take place?

15 A. That's correct.

16 Q. Now, looking again at the guidelines  
17 on page 4, in the fourth paragraph starting  
18 "implementation":

19 "Implementaiton of a policy requires the  
20 identification of areas in which other  
21 resource values exist. Fish habitats are  
22 normally identified through the  
23 Ministry's aquatic habitat inventory  
24 survey program and may be further  
25 characterized to through assessment

1 studies. It is imperative that planning  
2 of habitat inventory programs be closely  
3 coordinated with timber management  
4 planning in order to provide the  
5 requisite habitat information when it is  
6 needed for decision-making. Recognition  
7 of fish habitat values early in the  
8 timber management planning process can  
9 assist in establishing the general  
10 direction for the 20-year period of the  
11 timber management plan, however, fish  
12 habitat information is used most  
13 extensively during the preparation of the  
14 five-year plan of operations when  
15 decisions concerning operations in  
16 specific areas are made."

17 Do you agree with that?

18 A. Yes, I do.

19 Q. And I suppose that is where the  
20 problem arises; is it not, how -- is having the  
21 resources to get the information.

22 A. That is a difficulty, yes.

23 Q. And have you any solution to that  
24 problem?

25 A. No, I don't, in terms of the

1 additional resources that would be required to get all  
2 of the information that is needed for timber management  
3 planning. At the present time we simply don't have  
4 those resources to do what is called for in those two  
5 particular paragraphs.

6 Q. And there is also the question of  
7 timeliness; is there not?

8 A. That's right. You mean --

9 Q. Which appears to be emphasized in  
10 this statement of policy?

11 A. That's right. Yes, you need the  
12 information early on.

13 Q. So it is a question of resources, is  
14 it; that is, Ministry resources?

15 A. I think it is in this case, yes.

16 Q. And in the absence of a decision  
17 being made, the conservative approach which we have  
18 discussed comes into play?

19 A. That's correct.

20 Q. And timber which, in accordance with  
21 good timber management, ought properly to have been  
22 harvested is not harvested?

23 A. Well, if operations would have  
24 normally occurred in those areas then, yes, there has  
25 been limitation on the wood supply.

1 Q. And has there been any identification  
2 made of the quantities we're speaking of?

3 A. Not to my knowledge.

4 Q. That has not been studied?

5 A. No.

6 Q. Mr. Douglas referred to it as  
7 significant. Would you agree with that?

8 A. I think he was referring specifically  
9 to areas in northwestern Ontario where there are a  
10 great many lakes and the scenario that he was  
11 discussing was 400-foot reserves. Certainly in that  
12 case there would be a lot of wood.

13 Q. I understand that, yes. Then in the  
14 absence of specific information, as I say these  
15 conservative constraints come into play, and yet we may  
16 be dealing with a lake which, as I mentioned earlier,  
17 is sterile of fish life -- aquatic life?

18 A. That is possible, although there are  
19 certainly not very many lakes to which the guidelines  
20 apply that would be sterile. In other words, they  
21 would have -- if not a fish population, they would  
22 certainly have other values, other aquatic life for  
23 example.

24 Q. Well, what are we protecting? Are we  
25 protecting fish aquatic values or other aquatic values?

1                   A. Well, we are protecting water quality  
2 and fish habitat and one of the reasons for protecting  
3 aquatic -- or water quality is to protect aquatic life.

4                   Q. Oh, I'm sorry, I thought the fish  
5 guidelines were designed for the protection of fish  
6 habitat.

7                   A. That's correct, but part of the  
8 rationale, as I understand it, for the protection of  
9 water quality is to protect whatever other values are  
10 present in the lake including other forms of aquatic  
11 life than fish.

12                  Q. Is that position enunciated anywhere?

13                  A. No, it isn't.

14                  Q. You will certainly correct me if I'm  
15 wrong, but my understanding of the purpose in  
16 protecting headwaters, for example, was to avoid the  
17 possibility of damage being done downstream in areas  
18 where there were fish values?

19                  A. That is the basic rationale for it,  
20 yes.

21                  Q. Well, is there any other?

22                  A. Well, I can speak only in general  
23 terms about the Ministry of Environment's position on  
24 protection of water quality, but I believe that it  
25 relates to protection of other aquatic life.



1 Q. Well, how is other aquatic life  
2 measured? The guidelines are very specific on how you  
3 measure minimum values for fish.

4 How does one ever measure these other  
5 aquatic values you are speaking of, because there  
6 doesn't seem to be any mechanism for doing so?

7 A. No, there isn't at least expressed in  
8 these guidelines. There are ways of sampling other  
9 aquatic life.

10 THE CHAIRMAN: Dr. Allin, are you  
11 alluding to, if I can use the analogy, utilizing the  
12 Fish Habitat Guidelines almost as a featured specie  
13 approach that we talked about with Dr. Euler, in that  
14 if you are protecting those appropriately you are  
15 automatically -- or could be automatically protecting  
16 other forms of aquatic life other than just fish?

17 DR. ALLIN: That is correct, yes.

18 THE CHAIRMAN: Without necessarily  
19 measuring them, naming them, or studying them?

20 DR. ALLIN: That's right.

21 MR. TUER: Q. Well, if the fish values  
22 are not there -- the fisheries values aren't there,  
23 again I go back to the question: How are you ever  
24 going to measure the aquatic values and what are the  
25 aquatic values?

1 DR. ALLIN: A. We do not routinely  
2 measure other aquatic values through our inventory  
3 programs, except in special cases where we would do  
4 studies of a more detailed nature that might look at  
5 other forms of aquatic life. So it is not our intent  
6 to get that sort of information.

7 Q. There are no standards?

8 A. No.

9 Q. And there is no identification of the  
10 other aquatic life values?

11 A. Not specified in any of these policy  
12 documents or guidelines, no.

13 Q. Well, retreating to the application  
14 of the guidelines themselves, other than as water  
15 quality is identified in Attachment 3, headwater lakes  
16 and so forth, there is no application of the guidelines  
17 to other aquatic values; is there?

18 Let me put it this way: I can comply one  
19 hundred per cent with the Fish Habitat Guidelines  
20 without any reference whatsoever to any aquatic life  
21 values other than fish; is that not so?

22 A. Yes, that's correct.

23 Q. So other aquatic life values are not  
24 a consideration in the exercise?

25 A. Yes, they are. What I mean by--

1 Q. Tell me how?

2 A. What I mean by that is that I believe  
3 that the Ministry of Environment's rationale for their  
4 water quality objectives is largely the protection of  
5 aquatic life and recreation in terms of their surface  
6 water goals and objectives.

7 And, as I understand it - and I can't  
8 speak for the Ministry of Environment, I can speak in  
9 only a very general way - but my understanding was that  
10 the concern for water quality and ensuring that waters  
11 as they are defined in the guidelines would receive  
12 some protection even if there is not fish habitat  
13 present, is in order to maintain other forms of aquatic  
14 life in part.

15 Q. All right. So whether those other  
16 aquatic forms of life are being maintained according to  
17 the guidelines and the policy statement and the  
18 Attachment 3 depends simply upon the application of  
19 those constraints, such as:

20 "All headwater lakes regardless of the  
21 presence of fishery values will be  
22 treated as lakes with cold water fish  
23 species for the purpose of applying the  
24 guidelines."

25 A. That's correct.

1 Q. And who knows what aquatic life  
2 values are there?

3 A. Well, it will vary a great deal,  
4 that's correct.

5 Q. Because nobody tests it, nobody  
6 identifies it; right?

7 A. Not on a broad scale basis, right.

8 THE CHAIRMAN: Well, Dr. Allin, if I  
9 could just interrupt once again.

10 Maybe I have misinterpreted something,  
11 but in dealing with the Moose Guidelines or in dealing  
12 with moose habitat, we learned that part of the cycle  
13 of the moose's life cycle is feeding in aquatic areas  
14 at a particular time of year or particular season and  
15 then moving to an upland area, that kind of thing.

16 DR. ALLIN: Yes.

17 THE CHAIRMAN: Would the vegetation that  
18 grows in an aquatic environment, which is then used to  
19 nourish those types of animals that feed on that type  
20 of vegetation, would that vegetation indirectly receive  
21 some kind of protection if in fact the Fish Habitat  
22 Guidelines were applied?

23 DR. ALLIN: Yes, it would because --

24 THE CHAIRMAN: Because of the water  
25 quality aspect that would enhance the growth of that



1 type of other aquatic life. Is that...

2 DR. ALLIN: Yes, that's correct. And in  
3 many cases we would be protecting vegetated areas in  
4 any event because they may be valuable fish habitat.

5 THE CHAIRMAN: So if you didn't apply the  
6 Fish Habitat Guidelines and if a deleterious effect was  
7 visited upon the aquatic environment, other forms of  
8 aquatic life other than just fish could be affected?

9 DR. ALLIN: That's correct.

10 THE CHAIRMAN: Which could have an  
11 implication, for instance for say moose, Dr. Euler, in  
12 terms of having the right type of aquatic vegetation  
13 for them to feed on?

14 DR. EULER: Yes.

15 THE CHAIRMAN: But you wouldn't be  
16 testing necessarily, or you wouldn't have a set of  
17 guidelines to deal specifically with aquatic  
18 vegetation?

19 DR. ALLIN: That's correct.

20 THE CHAIRMAN: Okay. So those are the  
21 other values and that is an example of some other  
22 values you are looking at other than just fish?

23 DR. ALLIN: Yes, but I guess the  
24 important point maybe here is, there will be some lakes  
25 in which there is not a significant fish population



1       where we judge that there is no either real or  
2       potential fish habitat that requires protection.

3                       And, in those cases, that is where the  
4       Fish Habitat Guidelines will be used to protect water  
5       quality for other purposes.

6                       MR. TUER:   Headwater lakes?

7                       DR. ALLIN:   Headwater lakes and some  
8       other situations.  It could be other small lakes that  
9       are not headwater lakes that, again, would not have a  
10      significant fish population, would have some form of  
11      aquatic life and there would be some concern there for  
12      water quality.

13                      THE CHAIRMAN:  Could you catch a  
14      situation like that with not a significant fish  
15      population if, for instance, Dr. Euler or a biologist  
16      came along and said:  Well, that lake is important as  
17      moose habitat to be caught under the other guideline?

18                      I suppose it's unlikely that you would  
19      not have fish in the lake if it was also a good area  
20      for moose habitat, although presumably you could get  
21      into that situation?

22                      DR. ALLIN:  It would be unlikely that  
23      there would be no fish.  Whether we would consider them  
24      significant enough to require protection; in other  
25      words, to meet our fisheries management objectives, is

1 another question.

2 MR. TUER: Q. Now, as far as modified  
3 harvest -- modified cut is concerned, what you look at  
4 is what is in the guidelines and it may be that other  
5 aquatic life is, so to speak, carried on the back of  
6 the fish guidelines but they are not measured --  
7 identified or quantitatively measured, those other  
8 values?

9 DR. ALLIN: A. That's right.

10 Q. One may expect them to be there and  
11 they may be there because presumably they help to  
12 support the fish population?

13 A. That's right.

14 Q. All right. So other than -- just to  
15 sum this up, other than what may result indirectly in  
16 the management of the fish habitat under the guidelines  
17 you look only to the guidelines; is that right?

18 A. For values other than fish habitat?

19 Q. Whatever they may be, yes.

20 A. Yes, we look at the Fish Habitat  
21 Guidelines to provide protection.

22 Q. To protect whatever might be there?

23 A. That's right.

24 Q. Can I take you, please, Dr. Allin, to  
25 Volume II of Panel 10 evidence. At page -- first of

1 all, I am just going to ask you a few questions about  
2 your paper - starting at page 843 - questions by way of  
3 clarification.

4 Have you got that, sir?

5 A. Yes, I do.

6 Q. Summing up what you said in the  
7 latter two-thirds of that page, is it correct to say  
8 that there is no evidence of any significant problem  
9 arising from harvesting with respect to increased  
10 flows-

11 A. Well, those two --

12 Q. --or flooding?

13 A. Those two paragraphs refer  
14 specifically to downstream flooding and to effects on  
15 wild rice.

16 Q. Yes.

17 A. And the evidence that I have seen  
18 would indicate that neither situation is likely to be a  
19 problem.

20 Q. So there is no such evidence?

21 A. That's right.

22 Q. All right. Page 846, in the second  
23 paragraph you state:

24 "Harvesting is reported to disturb a  
25 maximum of 30 per cent of the soil

1 surface depending on the methods and  
2 equipment used. The occurrence of  
3 surface erosion tends to be localized."

4 We all heard the evidence of Mr. Oldford  
5 several days ago to the effect that the best he could  
6 do with the best equipment available today was 25 per  
7 cent.

8 I gather that a disturbance such as to  
9 cause erosion of 30 per cent is pretty rare; is it not?

10 A. I would think it would be.

11 Q. And it would be very, very localized  
12 in terms of acreage?

13 A. Yes. In terms of where the mineral  
14 soil would be exposed would be localized, yes.

15 Q. Yes. When I mentioned Mr. Oldford's  
16 evidence, I was talking about scarifying.

17 A. Yes.

18 Q. And the fact that the only place you  
19 are going to find this sort of thing is perhaps in a  
20 landing or in a very small, defined area; is that not  
21 the case?

22 A. You would expect to find it at a  
23 landing, but also on skid trails under certain  
24 conditions. For example, where conditions were very  
25 wet and a skid trail had perhaps been used repeatedly,

1       that area may or may not be small depending on how you  
2       define small, I suppose.

3                   Q.   All right.  In any event, when you  
4       say a maximum of 30 per cent of the soil surface,  
5       that's the worst-case scenario?

6                   A.   Oh, very much.

7                   Q.   And, in general, do you consider soil  
8       erosion to be a problem in harvesting in the area of  
9       the undertaking?

10                  A.   I believe it is a potential problem  
11       that we need to take steps to prevent from becoming an  
12       actual problem and we think we do that through the use  
13       of the guidelines.

14                  Q.   Yes.  So shortening that up, it's not  
15       a problem?

16                  A.   I don't believe it is with the use of  
17       the guidelines--

18                  Q.   Thank you.

19                  A.   --and good practice.

20                  Q.   And on page 847 in the second last  
21       paragraph you said:

22                       "The occurrence of sedimentation may be  
23                       influenced by the logging method  
24                       employed in that with the tree-length  
25                       and shortwood methods the presence of



1 logging debris reduces the movement  
2 of eroded material and, therefore, the  
3 potential for sedimentation as well."

4 Now, you haven't dealt with the third  
5 common method of harvest and that's full-tree harvest.  
6 You are not suggesting that full-tree harvest is  
7 necessarily going to cause erosion; are you?

8 A. No, I would not. I was just making  
9 the distinction in that with the full-tree you do leave  
10 less logging debris on the site normally.

11 Q. But don't create a problem?

12 A. Not necessarily, no.

13 Q. Now, on page 850 you are speaking of  
14 debris and waterbodies. I wasn't clear what you meant  
15 by that. Are you talking about streams or rivers?

16 A. Well, I used the term stream for both  
17 what you might call a small stream and a large river.  
18 I used the term stream to cover both of those  
19 situations.

20 Q. And you used the term waterbody?

21 A. I used the term waterbody to cover  
22 both streams and lakes.

23 Q. So a stream includes a river?

24 A. Yes.

25 Q. On the following page, at page 851,

1       you state in the second sentence:

2                       "This may reduce habitat for aquatic life  
3                       particularly in streams."

4                       And you are including rivers there, are  
5       you?

6                       A.   Yes, I am.

7                       Q.   Well, that can occur naturally, can  
8       it not, because of natural harvest, blowdown or--

9                       A.   That's correct.

10                      Q.   --disease?

11                      A.   Yes.

12                      Q.   Now, finally, in the preservation of  
13       the fishery and the protection of fishery in the area  
14       of the undertaking, what effect does fishing itself and  
15       regulation fishing have on the fisheries population?

16                      A.   Well, certainly harvesting of fish  
17       can have a major effect on the status -- abundance of a  
18       fish population.   So it can have a very significant  
19       effect.

20                      Q.   Is that something that's taken into  
21       account in your fish habitat regulations?

22                      A.   No, it isn't.   It is taken into  
23       account in our general fisheries management program,  
24       but it is a problem apart from fish habitat problems,  
25       so we deal with it not in this form but in others.

1 Q. I'm sorry, I don't quite understand.

2 Is there not a connection between protection of the  
3 fisheries population from whatever threat?

4 A. Yes, there are a number of stresses  
5 that can act on fish populations. Harvesting a fish is  
6 one of them and activities or industries or whatever  
7 that have a deleterious effect on fish habitat is  
8 another form of stress, and there are also other  
9 stresses that work in some particular environment.

10 Q. So without regulation you would have  
11 the best fish habitat control so far as disruption by  
12 timber management is concerned and still lose your fish  
13 if you didn't have proper angling control?

14 A. That's correct. We have to manage  
15 both stresses.

16 Q. All right, thank you. Then, Mr.  
17 Clark, you gave evidence in Exhibit 379 with respect to  
18 the Tourism Guidelines. I think your evidence was that  
19 the guidelines were -- who initiated the drafting of  
20 these guidelines?

21 MR. CLARK: A. There was a -- it was a  
22 collaborative effort. It involved representatives from  
23 the Ministry of Natural Resources, the Ministry of  
24 Tourism and Recreation, the forest industry and the  
25 tourism industry.

1 Q. Now, we have heard that the  
2 guidelines with respect to fish habitat and moose  
3 habitat are mandatory. What did you say about the  
4 compulsory application of the Tourism Guidelines?

5 A. Well, the use of the guidelines is  
6 mandatory. However, as I pointed out in my evidence,  
7 the guidelines are structured in such a way as to offer  
8 a variety of potential solutions but not specific  
9 direction for individual cases.

10 So that, as with the other guidelines,  
11 there is a need to exercise professional judgment and  
12 take local conditions into consideration.

13 Q. Well, from my reading of the  
14 guidelines, Mr. Clark, I was left with the impression  
15 that where you have a certain circumstance or problem,  
16 if you will, it might well be addressed in a method  
17 subscribed in the guidelines?

18 A. That's correct.

19 Q. But not necessarily?

20 A. That's also correct.

21 Q. So there is a good deal of discretion  
22 not only in how they are -- a specific guideline is to  
23 be applied, but also whether that specific guideline is  
24 going to be applied?

25 A. That's correct.

1 Q. And in your experience -- how long  
2 have they been in use, Mr. Clark?

3 A. If you just give me a minute, I  
4 will -- I think it is 1986.

5 Q. And you are fairly close to the  
6 administration of them; are you?

7 A. Yes, reasonably.

8 Q. And are they working?

9 A. I think in general they are working,  
10 yes.

11 Q. And are you getting reasonably good  
12 cooperation from industry in the application of the  
13 guidelines?

14 A. I believe so.

15 Q. Now, you had a list of -- which is  
16 Exhibit 469, everybody has found their copy except me.  
17 All right. You are the author of this exhibit; are  
18 you, Mr. Clark?

19 A. That's correct.

20 MR. TUER: Give me a moment, would you,  
21 Mr. Chairman, I have lost my copy with my notes on it.

22 Q. Okay. Going to the first page. In  
23 the third paragraph from the left -- third column from  
24 the left:

25 "Significant potential negative



1 effects..."

2 You have:

3 "Tourism: reduction in angling and  
4 hunting, quality, loss of remoteness and  
5 aesthetics."

6 And I have just written there: I suppose  
7 it depends what kind of fisherman you are or how many  
8 you are; does it not?

9 MR. CLARK: A. I am not sure what your  
10 point is here.

11 Q. You say it's a reduction in angling  
12 and I say for whom?

13 A. It is a reduction -- potential  
14 reduction in angling and hunting quality for, in this  
15 case, people who would be using tourism establishments.

16 Q. But not for the person who wants to  
17 reach that lake or hunting area?

18 A. Well, it may do. What we are saying  
19 here, that particular column, "significant potential  
20 negative effects" refers to a summary of potential  
21 effects in the absence of provincial guidelines or  
22 other directions.

23 So that if we are dealing with, for  
24 example, fish, fish habitat and water quality, there  
25 are potentials for - and we have noted them elsewhere -

1 erosion, sedimentation, nutrient transfer, and so  
2 on, all of which may negatively affect the fishing and  
3 may be reflected in reductions in the quality of  
4 angling.

5 Q. All right. My question is - I don't  
6 quarrel with you in that answer - my question was  
7 related more to loss of remoteness.

8 A. Yes. In that particular case we are  
9 talking, for example, in the context of remote tourism  
10 and there may be instances where you get increased  
11 competition or potential conflicts between user groups,  
12 both of whom are interested in angling.

13 Q. That's why I said for whom?

14 A. Yeah, okay.

15 Q. On page 3 you have written:

16 "Potential negative effects for  
17 commercial food and bait fishermen:  
18 Reduction in fish resource through effect  
19 on fish habitat."

20 Is there any evidence of that potential  
21 negative effect?

22 A. The only negative effect -- the  
23 evidence is really the evidence of Dr. Allin. I think  
24 you have to go back to the material that he presented  
25 and in his paper, of course, he did identify a number

1 of potential negative effects and we are simply saying  
2 here, by way of summary, that in the absence of  
3 guidelines the potential exists for those kinds of  
4 negative effects to occur.

5 Q. All right.

6 A. You will note though in that -- with  
7 that particular stakeholder group, we do identify that  
8 there is an overall positive effect through more  
9 economical access. And I guess what we are saying in  
10 total is that we think that the effect is largely  
11 positive.

12 Q. All right. On page 4 you have, under  
13 "Significant potential negative effects  
14 for cottagers: Loss of water quality."

15 I appreciate that you are talking about  
16 the potential effect, but do have any evidence of that  
17 with respect to cottagers at the present time?

18 A. I certainly don't. Dr. Allin may be  
19 able to speak to that particular issue.

20 Q. It is more apt to be potential  
21 negative effects as a result of the cottagers being  
22 there; would it not?

23 THE CHAIRMAN: But don't you have to  
24 look, Mr. Tuer, to which stakeholder group you're  
25 looking at?

1 MR. TUER: Yes, I am looking at the  
2 stakeholder group which are cottagers.

3 THE CHAIRMAN: Yes, but why would  
4 cottagers have a negative effect. They wouldn't be  
5 cottagers without a cottage, or would they?

6 MR. TUER: I'm just saying that -- I  
7 shouldn't make statements, but I could put it in the  
8 form of a question:

9 Q. Do not cottagers cause loss of water  
10 quality in many instances?

11 MR. CLARK: A. I don't want to confuse  
12 the issue here. I think all that we are really saying  
13 here is that cottagers might have the same concerns  
14 that a variety of other users would have with respect  
15 to the potential effects of harvesting on water  
16 quality.

17 It certainly wasn't our intention to  
18 identify the effects that cottagers would have on water  
19 quality in this particular table. There is no doubt  
20 that, having said that, that cottages in some instances  
21 may have effects.

22 Q. And then on page 5 under the same  
23 column for anglers, you have:

24 "Overexploitation of fisheries resource."

25 I take it that's because of better

1 access?

2 A. Yes, that's correct.

3 Q. And that's something that is  
4 controlled by regulation; is it not?

5 A. That's correct.

6 Q. That is, regulation by the angler?

7 A. Yes.

8 Q. Then on page 6 where the stakeholder  
9 is hunters, you've got:

10 "Generally positive and a potential  
11 negative..."

12 I take it that's related to, on the  
13 positive side, to improved wildlife habitat for some  
14 species?

15 A. That's correct and improved access.

16 Q. All right. I was confused. On page  
17 7 where the user is native communities, you show a  
18 potential negative effect with respect to wild rice  
19 harvesters, when on page 2 you say that:

20 "No negative effects have ever been  
21 confirmed."

22 A. The only example that I could think  
23 of when we put this material together is in traditional  
24 wild rice harvesting areas there is sometimes  
25 traditional camping areas associated with them, and to



1 the extent that harvesting activities or harvest and  
2 associated access might conflict with those traditional  
3 camping areas that were used by wild rice harvesters  
4 who harvest wild rice in a traditional way, there might  
5 be a potential effect and that was the example that we  
6 were thinking of when we included that.

7 Q. All right. I've made a short list  
8 here - which you can agree or disagree with - of some  
9 benefits of timber management for other users.

10 First of all, I list access to other  
11 users. Would that be a benefit of timber management?

12 A. Yes, it cuts both ways. It certainly  
13 can be a benefit to other users.

14 Q. A benefit can be utilization of more  
15 of the forest by other users?

16 A. To the extent that additional  
17 opportunities are provided, yes.

18 Q. A benefit can be improved by other  
19 resource, for example, moose population, deer herds?

20 A. Yes, subject to sound forest  
21 management practices.

22 Q. Yes. In all examples that I am  
23 giving you, protection of the resource?

24 A. Yes.

25 Q. Pardon?

1 A. Go ahead.

2 Q. For example, accessing the mature  
3 forest and harvesting it result in healthy forests. Is  
4 that a benefit?

5 A. Yes.

6 Q. Potential for employment for fish  
7 guides and others who are in the forest in employment  
8 other than timber management?

9 A. Yes, I think generally that's true.

10 Q. Employment for those involved in the  
11 protection of the forest from wild fire, for example?

12 A. Yes, that's true.

13 Q. Again, benefits to people and  
14 institutions in the community -- adjacent community  
15 flowing from the employment for woodworkers?

16 A. That is true.

17 Q. Thank you, Mr. Clark.

18 I have one more question for you, Dr.

19 Allin. Would you go to page 55 of the first volume.

20 DR. ALLIN: A. Yes, I have it.

21 Q. This is a statement of Potential  
22 Environmental Effects, Aquatic Environment and you are  
23 the author of that; are you?

24 A. I'm not sure that I put these exact  
25 words together. It was summarized from my report.

1                   Q. Yes. In going through it with my  
2 highlighter, I have found a large number of 'mays':  
3 This may increase total stream flow, the latter effect  
4 may result, paragraph 47 harvesting operations may also  
5 result in soil disturbance, this may in turn result,  
6 and so on and so forth through a page and a half.

7                   Is it fair to say that all of these  
8 uncertainties that are expressed in this statement are  
9 dealt with in the guidelines, addressed in the  
10 guidelines?

11                  A. Certainly in a general sense they are  
12 addressed in the guidelines because the guidelines do  
13 address a variety of potential effects which we, in our  
14 judgment, felt to be the most significant.

15                  And the protection that is provided  
16 through the use of the guidelines should be sufficient  
17 to prevent, in effect, any adverse effects from  
18 occurring.

19                  Q. So if you apply the guidelines you  
20 could move the uncertainties that are expressed in this  
21 summary -- in the executive summary?

22                  A. That's correct.

23                  Q. Mr. Hynard, at page 60 of Volume I --  
24 and I'll warn you now that none of my questions are  
25 going to be very heavy, these are just matters of

1 explanation and clarification I want. At page 60 -- or  
2 it has been written:

3 "The forester responsible for the  
4 management of the unit prescribes the  
5 harvest method."

6 Now, I suggest to you that may be the  
7 case in Crown management units, but not necessarily so  
8 in the FMA; is it?

9 MR. HYNARD: A. Yes, that is true in the  
10 FMA also.

11 Q. Well, are there not a number of  
12 people involved in the FMA dealing with the  
13 prescription of the harvest method?

14 A. Are you referring to the planning  
15 team for the preparation of--

16 Q. Yes.

17 A. --the management plan?

18 Q. Yes.

19 A. Those planning teams exist on Crown  
20 units also. They are treated the same.

21 Yes, it is the forester who prescribes  
22 the harvest system that will be employed. The role of  
23 the other members on the planning team is to ensure  
24 that the interests of their programs and their  
25 programs' clients are incorporated into the management

1 plan.

2 Q. Well, go -- on page 75, for example,  
3 you say:

4 "It is the forester responsible for the  
5 management of the unit who prescribes  
6 the silvicultural harvest system."

7 Now, who is that on the FMA?

8 A. It is the forester employed by the  
9 company.

10 Q. Right. And in the Crown management  
11 unit?

12 A. It would be the unit forester in the  
13 employ of the MNR.

14 Q. All right. On page 82 in the last  
15 paragraph dealing with choice of regeneration method,  
16 you have written:

17 "This factor can present a paradox in the  
18 choice of harvest system. The silvical  
19 characteristics and the site conditions  
20 set the stage for the regeneration method  
21 and, hence, the harvest system but on  
22 occasion the regeneration method to be  
23 used takes priority. This underlines the  
24 interrelationships of multiple factors in  
25 making decisionsq."



1                   And my note there is: What do you mean  
2                   by that? For example, if you don't have a  
3                   silvicultural prescription when you start, might you  
4                   not end up with a very expensive regeneration cost?

5                   A. I don't understand the question.

6                   Q. All right. Let me state it again.  
7                   Which comes first?

8                   A. I think that was the point in writing  
9                   it in that fashion. Well, normally the silvical  
10                  characteristics of the trees set the stage for the  
11                  silvicultural harvest system that is going to be  
12                  employed.

13                  And I gave an example in that evidence in  
14                  the case of white pine, that if you were -- if you had  
15                  elected to go for natural regeneration on that  
16                  particular site type for all the factors that are  
17                  discussed in my evidence, then the system which best  
18                  lends itself to that natural regeneration of white pine  
19                  is the shelterwood system. Shelterwood because it  
20                  gives you a source of seed and cover for the  
21                  regenerating stand and prevents the dessication of  
22                  those seedlings.

23                  On the other hand, if you had elected to  
24                  go with a natural regeneration method -- or, I am  
25                  sorry, an artificial method on a more competitive site

1 where you do not expect that the naturals which are  
2 slower starters than nursery stock, if you expect that  
3 they would be unable to compete with that other  
4 vegetation, you may elect to go with an artificial  
5 method.

6 In that case, there is little purpose in  
7 keeping a shelterwood overstorey or there may be little  
8 purpose, in which case, it has led you to a clearcut  
9 silvicultural system.

10 Now, which came first: The chicken or  
11 the egg. It depends on where you break into the cycle.  
12 It depends entirely on those circumstances.

13 Q. But normally method of regeneration  
14 is foremost in your mind at the time you are  
15 determining what kind of harvest; is it not?

16 A. That's right, it is. It is right at  
17 the fore of your mind.

18 Q. You wouldn't separate one from the  
19 other?

20 A. No, no. You have to consider them  
21 together.

22 Q. Now, at page 90 - this is just a  
23 question of terminology - is there any significance to  
24 your use of the word clearcuts, clearcutting, and on  
25 page 91 clearcut system?

1                   A. There is no significance in  
2 distinguishing between clearcuts, clearcutting and the  
3 clearcut silvicultural system. There was no intent  
4 meant to differentiate between them.

5                   Q. Thank you. Now, on page 97 - this  
6 may have been picked up before - bottom of the page  
7 you have written:

8                   "Circular seed tree plots 20 metres  
9 diameter with a 200-metre spacing."

10 Should that be 200 feet?

11                  A. No, that should be 200 metres.

12                  Q. All right.

13                  A. Mr. Tuer, I am not a spruce forester.  
14 I can double check that figure if you would like me to  
15 do so.

16                  Q. Fine. The instructions I got was it  
17 was probably 200 feet.

18                  A. Yeah, it does seem a little far to me  
19 too. But let me double check that figure and respond  
20 tomorrow morning.

21                  Q. Thank you. Now, in dealing with page  
22 106 with block clearcuts. I think in your evidence you  
23 showed us a slide of block clearcutting that looked  
24 almost good enough to play checkers on. Do you know  
25 the one I am speaking of?

1 A. I recall the one.

2 Q. And that was in the clay belt; was it  
3 not?

4 A. It was.

5 Q. But by and large is it not the case  
6 that the clearcuts -- the configuration tend to follow  
7 natural boundaries rather than done in that fashion?

8 A. Yes, the usual case is to follow  
9 natural topographic features.

10 Q. And the block clearcut or  
11 checkerboard, or whatever you want to call it, does  
12 that not lead to considerable difficulties in taking  
13 your leave cut later on, you have got to keep your  
14 roads open?

15 A. Oh, yes, yes, it leads to several  
16 difficulties in that area. First of all, there is the  
17 difficulty in costs of laying out the cut in that  
18 fashion, in carrying out the cut in that fashion, in  
19 keeping the roads maintained during that period until  
20 your return cut, or at least reopening the roads at  
21 that return time.

22 Q. And if you have to reopen the roads,  
23 then it messes up your regeneration, or it may?

24 A. Well, it wouldn't affect the  
25 regeneration so much because your roads are already in

1 place and you will not have regenerated the roaded  
2 areas, or at least the roads.

3 But it could affect -- you could affect  
4 regeneration in skidding through the regenerated blocks  
5 on your way out. It may be necessary, on occasion, to  
6 go through a regenerated block.

7 Q. And so, all in all, if you have  
8 alternatives, block cutting is not -- first of all, it  
9 is not as economically competitive?

10 A. Well, in that sense, like there are  
11 extra costs and there are extra difficulties and I  
12 think in choosing the system you have to look at your  
13 alternatives and what their costs and difficulties are.

14 Q. Well, take the example you showed us  
15 earlier in this panel evidence about the checkerboard  
16 square.

17 Was there any particular reason why that  
18 forest was best harvested in that fashion that you are  
19 aware of?

20 A. No, not that I am aware of. That  
21 location was selected by me -- or, I am sorry, for me  
22 by Tony Paradiso. I told him that I was looking for an  
23 example of a block clearcut and that I wanted to know  
24 the general site type and the history of the area, what  
25 happened afterwards, and he selected that spot.



1 Q. It's reasonably uncommon; is it not,  
2 that sort of harvesting?

3 A. No, I wouldn't call it reasonably  
4 uncommon. Gord, to what extent does block clearcutting  
5 occur in -- for example, in the northern region?

6 Would you classify that -- the question  
7 was: Is it uncommon?

8 MR. OLDFORD: A. It is in the very low  
9 percentages, sir.

10 Q. Yes. And there are other ways of  
11 harvesting that are equally as efficient and a lot  
12 cheaper?

13 MR. HYNARD: A. Well, again I think you  
14 have to look at the alternatives for that particular  
15 location.

16 Q. Accepted.

17 A. I am sure there are cases where  
18 alternatives are superior, yes.

19 Q. Excuse me. One moment. Similarly we  
20 saw examples of, for example, chevron cutting. I  
21 assume you want to show the various alternatives that  
22 are available.

23 A. Yes.

24 Q. But do you really think that chevron  
25 cutting is an efficient way of harvesting?

1                   A. No, and I would call it uncommon  
2 also. The only advantage the chevron cut has is that  
3 it limits visibility into the cut-over behind -- from  
4 the road, for example.

5                   Q. But that can be done in other  
6 fashions that are much less costly?

7                   A. Did you have an alternative in mind  
8 so that I could weigh it?

9                   Q. You are the expert, Mr. Hynard, I'm  
10 just suggesting that --

11                  A. The Tourism Guidelines give a number  
12 of ideas for foresters in planning teams to consider in  
13 reducing the effect on visual aesthetics of  
14 clearcutting in visible areas and, in fact, chevron  
15 cuts may be viewed as objectionable by some viewers  
16 because they are such rigid, laid out structures they  
17 don't appear so natural.

18                  Now, they appear more natural from the  
19 road than they do from the air. They look like the  
20 stripes on a sergeant's uniform from the air.

21                  Q. And they are reasonably uncommon; are  
22 they not?

23                  A. Yes, they are uncommon.

24                  Q. And do you not run -- does applying  
25 that method, does one not run the risk that the company

1 will never come back and take the leave cut?

2 A. Oh, yes, that is very common on leave  
3 blocks where pieces of a mature forest are left for a  
4 specific reason, either for aesthetics or for shelter  
5 patches for moose management. They may be kept along  
6 water bodies for purposes of fish habitat.

7 It may, according to the guidelines, be  
8 possible to return and cut those blocks after the  
9 purpose of their retention has been achieved. For  
10 example, if they have been kept for aesthetics, after  
11 that cut-over block has regenerated and grown up into  
12 an acceptable looking young forest, according to the  
13 guidelines, it may be possible to return there, but in  
14 fact it may not be -- it may not necessarily be  
15 practical.

16 And my sense is that many of these  
17 reserves are in fact never returned for, or will never  
18 be returned for. Now, that is a factor too in laying  
19 out those blocks. It may be advisable to lay them out  
20 big enough to make it worthwhile coming back for.

21 Q. Yes. And the other additional problem  
22 that we heard from Dr. Euler that putting the rigid  
23 boundaries on harvest areas is not necessarily  
24 biologically advantageous. Is that right, Dr. Euler?

25 DR. EULER: A. Yes, that's correct.

1                   Q. So you, for one at these, would not  
2 be much in favour of the block clearcut that we saw in  
3 the photograph that Mr. Hynard presented?

4                   A. I think there are better ways to  
5 solve those problems, although that is not to say I  
6 would never advocate a block cut because there may be  
7 causes where that is the right technique.

8                   Q. Yes. Mr. Hynard, you mentioned in  
9 your evidence the practice of girdling trees which I  
10 gather is cutting the bark around so that, in a sense,  
11 you are strangling them and they eventually die and  
12 fall over?

13                  A. Yes.

14                  Q. My instructions are that that is much  
15 frowned on by the Ministry of Labour. Are these trees  
16 sometimes called widow-makers or chicots?

17                  A. Well, they --

18                  Q. They become that.

19                  A. They turn into a chicot, not a  
20 widow-maker.

21                  Q. What is the difference between a  
22 chicot and widow-maker?

23                  A. Well, you have to be married to be a  
24 widow.

25                  Q. Touche.



1                   A. Girdling is a -- we will be talking  
2 more about girdling in panel 12, tending. But it at  
3 one time was a very, very common technique in the Great  
4 Lakes/St. Lawrence Forest for removing trees that were  
5 unmerchantable and trees were marked for -- let's say  
6 in a selection cut, for example, trees are marked for  
7 removal but they are not all merchantable. The company  
8 harvested only those trees which held a product for it  
9 and that left the question of the marked but  
10 unmerchantable trees that were still there and  
11 interfering with the objective of the cut which was to  
12 give the remaining trees room to grow and provide  
13 conditions for regeneration to develop.

14                   Well, one efficient and effective means  
15 of doing that is by girdling the trees. We have had  
16 discussions with the Ministry of Labour over the  
17 practice and it is true that girdled trees can present  
18 a hazard to other forest users. They are a great home  
19 for the pileated woodpecker, but they are a hazard.

20                   And, for that reason, we ensure certainly  
21 on my unit that girdling does not occur along  
22 recreation trails, roadways or other areas that are  
23 used -- that are known to be used by recreationists.

24                   The practice of girdling has diminished  
25 considerably in the last five to ten years for the



1 simple reason that -- well, for two reasons. The main  
2 reason is that as markets -- timber markets improve for  
3 low-grade hardwoods, more and more of this material is  
4 in fact being harvested by the companies rather than  
5 bypassed.

6 The second reason is that much of our  
7 work -- our silvicultural work is now being contracted  
8 to the licensee. Generally speaking, in my experience  
9 at any rate, the licensees have found it easier and  
10 more efficient to fell the tree rather than girdling  
11 it. There are already standing beside the tree with a  
12 chain saw in their hands and that gives a considerable  
13 advantage, efficiency to felling the tree rather than  
14 girdling it. So the practice has diminished.

15 Q. All right. That was going to be the  
16 question I was going to put to you. Why not cut the  
17 tree down? Was it because it was more difficult  
18 historically to cut that tree down?

19 A. It boils down to that. It is a  
20 question of cost and efficiency to get the job done.

21 Q. If you had to do it with a manual saw  
22 and an axe it was easier to girdle; is that the  
23 historical reason for it?

24 A. Sounds crazy, but it is true.  
25 Actually, if you have to hire a crew of men to go into

1 an area with poor access lugging chain saws and gas and  
2 oil is considerable expense in the operation. Girdling  
3 trees with axis is much quicker and easier and cheaper.

4 There are other advantages to girdling  
5 over felling. One of them is damage to the residual  
6 trees. Girdled trees come down slowly piece by piece  
7 and there is little, if any, damage to the trees that  
8 are being released.

9 Q. But in any event, do you agree that  
10 the Ministry of Labour in their employment standard  
11 regulation appear to frown on the practice?

12 A. Yes, I agree with that.

13 Q. Now, Mr. Oldford, I have only a few  
14 quick questions for you. First of all, at page 158 you  
15 have got a sketch of a full-tree logging method using a  
16 feller-forwarder.

17 MR. OLDFORD: A. That's correct.

18 Q. My instructions are that this type of  
19 equipment which is perhaps not as commonly used as some  
20 others, has a cost of about \$750,000?

21 A. That would be in the range, sir.  
22 They are a very expensive piece of equipment. And if I  
23 might add, I wasn't trying to depict that this was the  
24 only piece of equipment that would produce full-tree to  
25 roadside.

1                   Q. I wasn't suggesting that. It is  
2 rather less common than other equipment used for  
3 full-tree harvesting; is it not?

4                   A. Yes, sir. The more common would be  
5 to use a skidder to forward the full trees a,  
6 conventional skidder with either a cable or one with a  
7 a grapple arrangement.

8                   Q. And then on page 159 you spoke of the  
9 feller-forwarder and the advantages of it having a  
10 protective cab. This again goes to the safety  
11 question. That applies to virtually all mechanical  
12 equipment in the forest today; does it not?

13                  A. Yes, sir.

14                  Q. Now, Mr. Rolls has insisted that I  
15 ask you these questions dealing with the shortwood  
16 logging method. Is it the case that Mr. Rolls' company  
17 uses the shortwood harvester?

18                  A. That particular shortwood harvester  
19 that we saw working in the film, I believe there are  
20 probably only two left working in the Province of  
21 Ontario and, that is correct, Mr. Rolls' company does  
22 use those machines.

23                  Q. On page 162, in the fourth line you  
24 have said in the third line:

25                         "The tree is firmly grasped by hook and

1 arms and cut at the base with hydraulic  
2 shears or a rotating blade."

3 And Mr. Rolls says that is not right,  
4 there is no rotating saw blade?

5 A. He's correct, that was a typo in the  
6 evidence.

7 Q. And then continuing on:

8 "The delimeter-slasher works with a pulley  
9 system."

10 A. That is incorrect. We've produced  
11 more than one copy of this evidence and I guess I  
12 didn't read the final copy coming off the word  
13 processor as closely as I should have. It is an  
14 hydraulic stroke on that apparatus.

15 Q. And further down where you speak of:  
16 "The logs are cut to the desired lengths  
17 with a circular saw."

18 Again that is shearing blades; is it?

19 A. A shear blade, I agree.

20 Q. Thank you. Now, dealing with the  
21 wide tires that are utilized, they are utilized most  
22 commonly in the clay belt; are they?

23 A. Correct.

24 Q. And, first of all, they are only  
25 utilized in certain kinds of equipment?

1 A. Correct.

2 Q. Skidders?

3 A. Skidders for the most part.

4 Q. Yes.

5 A. And some forwarders.

6 Q. And they are not easily switched from  
7 regular to balloon tires; are they?

8 A. No. You would need to buy -- to  
9 purchase special rims for the machinery and it is  
10 common practice to equip the particular machine with  
11 two sets of tires, to change the tires with the  
12 seasons.

13 Q. And they are quite expensive; are  
14 they not?

15 A. Yes, probably in the order of four to  
16 five times the original equipment.

17 Q. I am instructed that the cost is about  
18 \$10- to \$12,000 dollars per tire.

19 A. They could be that high right now. I  
20 haven't checked the price in three years.

21 Q. Okay. On page 17, in the third last  
22 paragraph -- penultimate paragraph you have written:

23 "Logging methods were selected in order  
24 to ensure the harvest areas minimally  
25 impacted. Additional costs incurred are



1 acceptable to costs of doing business in  
2 an environmentally sound manner."

3 THE CHAIRMAN: What page is this again,  
4 Mr. Tuer?

5 MR. TUER: 167, Mr. Chairman. I am  
6 sorry.

7 THE CHAIRMAN: 167.

8 MR. OLDFORD: Yes, that is my statement.

9 MR. TUER: Q. Now, first of all, am I  
10 correct in suggesting that it is fundamental that the  
11 logging method to begin with must be economically  
12 sound?

13 MR. OLDFORD: A. That is correct.

14 Q. If it is not economically sound you  
15 don't do it?

16 A. That's right, or you would choose  
17 another method.

18 Q. Yes. You don't use a method that is  
19 going to make you a loss?

20 A. That would be unwise.

21 Q. Yes.

22 THE CHAIRMAN: You do it a few times and  
23 then you would have to give it up.

24 MR. OLDFORD: That's just about when they  
25 change the logging superintendent, but that does happen

1 on occasion, Mr. Chairman.

2 MR. TUER: Q. Let's put it this way:  
3 You strive not to make a loss?

4 MR. OLDFORD: A. That's correct.

5 Q. And do you agree that woodland  
6 operations are not considered by industry to be a  
7 profit centre?

8 A. I agree with that very much, sir.  
9 They are a cost centre, although when viewed from the  
10 eyes of a woods manager, they could be viewed as a  
11 profit centre in that he can produce wood either  
12 economically or run the risk of not producing any wood;  
13 in other words, he mightn't have a job.

14 Q. All right. And, finally, on page 168  
15 in determining the choice, you have written:

16 "Enclosed cabs and mechanized operations  
17 such as full-tree logging using  
18 mechanical harvesters can improve the  
19 quality of the work environment and make  
20 the job more attractive to perspective  
21 employees."

22 I am suggesting to you that wrapped up in  
23 all of this are a couple of factors. First of all, the  
24 type of equipment that a company uses or purchases or  
25 leases has to be carefully considered because of the

1 very high cost of it?

2 A. I would agree with that, yes.

3 Q. And that means that, to some extent,  
4 the use of that equipment may be utilized in a  
5 situation where there may well be another piece of  
6 equipment which might be somewhat better to do the job,  
7 but it is not economical to buy that second piece of  
8 equipment?

9 A. Agreed.

10 Q. In other words, you have got to have  
11 a piece of equipment that, in your particular area, can  
12 best do the job in all circumstances?

13 A. Well, you would buy a piece of  
14 equipment that's suited to, I would say, your normal  
15 operating conditions. And I am not trying to predict  
16 your next question, but you would adapt the use of that  
17 equipment to, say, different conditions than you would  
18 normally incur in the area that you are operating.

19 Q. Yes. And is there -- another factor  
20 in the kind of equipment that you choose is the  
21 availability of skilled labour to operate it?

22 A. Very much so.

23 Q. Is that a difficulty in the woodlands  
24 these days?

25 A. It is a difficulty on some woodlands

1 operations, but I believe that on average woodlands  
2 staff, if they are not capable to handle equipment of a  
3 certain type - and, for instance, some of the new  
4 modern shortwood harvesters that are coming on the  
5 system - that training can be put in place to account  
6 for that.

7 Q. So you have to have -- you have to  
8 take into consideration training facilities?

9 A. And service. Yes, I agree.

10 Q. And service. And you also have to  
11 take into account labour agreements; do you not?

12 A. Yes, you do. That you have to take  
13 into account in a good many ways, Mr. Chairman.

14 Maybe that photograph - and I didn't  
15 speak earlier - where we saw the line of demarcation  
16 between two pieces of real estate, so to speak, there  
17 are cases in this province where if one was flying over  
18 one would say: There must be poor moose management on  
19 this side or really good moose management on that side,  
20 and sometimes a labour agreement will affect whether or  
21 not that cut is straight.

22 In other words, suppose a harvest cut was  
23 occurring on a Crown unit and that Crown unit abutted  
24 an FMA that had a labour contract, then there would be  
25 a need to delineate that boundary between the two

1 units.

2 Q. Thank you.

3 MR. TUER: Mr. Greenwood, have a nice  
4 evening. I'm finished.

5 THE CHAIRMAN: You are exactly one minute  
6 over, Mr. Tuer--

7 MR. TUER: My apologies.

8 THE CHAIRMAN: --and I think you win the  
9 prize so far for estimating the amount of time you  
10 would be.

11 You said a day and we told you five o'clock and you  
12 made it within a minute.

13 I suggest other counsel ask Mr. Tuer how  
14 he can predict with such accuracy how long he is going  
15 to be, considering he doesn't know, I presume, any of  
16 the answers before he asks the questions.

17 MR. TUER: Not a one.

18 THE CHAIRMAN: Well done. Ladies and  
19 gentlemen, we will adjourn until nine o'clock tomorrow  
20 morning.

21 Mr. Freidin?

22 MR. FREIDIN: Who cross-examines tomorrow  
23 morning?

24 THE CHAIRMAN: Ms. Swenarchuk I believe  
25 is going to start, and you will probably take the



1 remainder of the week?

2 MS. SWENARCHUK: I suspect so.

3 THE CHAIRMAN: Very well. We will start  
4 at nine o'clock.

5 Thank you.

6 ---Whereupon the hearing adjourned at 5:05 p.m., to be  
7 reconvened on Wednesday, April 5th, 1989, commencing  
8 at 9:00 a.m.

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